



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड १७]

शिमला, शनिवार, ३१ मई, १९६९/ १० ज्येष्ठ, १८९१

[संख्या २२

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३१ मई, १९६९/१० ज्येष्ठ, १८९१ को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्ति 'असाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुई:—

विज्ञप्ति की संख्या	विभाग का नाम	विषय
No. 6-91/61-L.R., dated the 20th May, 1969.	Law Department	The Himachal Pradesh Gift Goods (Unlawful Possession) Act, 1968 (Act No. 13 of 1969).

भाग १—वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के उप-राज्यपाल और हिमाचल बेंच आफ देहली हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश सरकार APPOINTMENT DEPARTMENT NOTIFICATION

Simla-2, the 21st May, 1969

No. 11-4/66-Appnt.—In exercise of the powers conferred by sub-section (1) of section 12 of the Code of Criminal Procedure, 1898 (Act V of 1898) as amended by the Punjab Separation of Judicial and Executive Functions Act, 1964, the Administrator (Lieutenant Governor), Himachal

Pradesh is pleased to appoint Shri Y. L. Rajwade, I.A.S., Deputy Commissioner, Kangra district, to be the Executive Magistrate of the First Class, under the said code to exercise such powers within the local limits of Kangra district, with effect from the 9th May, 1969.

2. In exercise of the powers conferred by sub-section (1) of section 10 of the Code of Criminal Procedure, 1898 (Act V of 1898) as amended by the Punjab Separation of Judicial and Executive Functions Act, 1964, the Administrator (Lieutenant Governor) is further pleased to appoint Shri Y. L. Rajwade, I.A.S., Executive

Magistrate of the First Class to be the District Magistrate of Kangra district, with effect from the 9th May, 1969.

PRAKASH CHAND,
Joint Secretary.

AGRICULTURE, ANIMAL HUSBANDRY AND FISHERIES BRANCH

NOTIFICATION

Simla-4, the 22nd May, 1969

No. 2-4/69-Agr.(Sectt.).—Whereas it appears to the Lieutenant Governor, Himachal Pradesh that land is likely to be required to be taken by the Himachal Pradesh Government at public expense for a public purpose, namely for the construction of Warehouse and Fruit Preservation Factory at Village Dangyar (Parmanu) Tehsil Kandaghat, District Simla. It is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section the Lieutenant Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other Acts required or permitted by that section.

Any person interested who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this notification file an objection in writing before the Collector, Simla district, Simla, Himachal Pradesh.

SPECIFICATION

District: SIMLA Tehsil: KANDAGHAT

Village	Khasra No.	Area	
		Big.	Bis.
DANGYAR	107	9	0
	108	7	4
	126	6	5
Total ..		22	9

By order,
P. K. MATTOO,
Secretary (Agriculture).

EDUCATION DEPARTMENT

NOTIFICATION

Simla-1, the 25th April, 1969

No. 14-26/67-Edu.(Plan).—In supersession of this Department notification of even number, dated the 19th May, 1967, the Lieutenant Governor, Himachal Pradesh is pleased to re-constitute and appoint an Advisory Committee on Education for Himachal Pradesh of the following members with a view to advise the Government in matters relating to the Education Department of Himachal Pradesh:—

1. Shri Tapincer Singh, M.L.A., Sirmur .. *Chairman*
2. Shri Keshav Ram, M.L.A., Mahasu .. *Member*
3. Shri Khazan Singh, M.L.A., Bilaspur .. *Member*
4. Shri Piru Ram, M.L.A., Mandi .. *Member*

5. Shri Arjun Singh, M.L.A., Simla .. *Member*
6. Shri Dila Ram Shabab, M.L.A., Kulu .. *Member*
7. Shri Kultar Chand, M.L.A., Kangra .. *Member*
8. Shri Hira Singh, M.L.A., Mahasu .. *Member*
9. Shri Ranjit Singh, M.L.A., Kangra .. *Member*
10. Shri Kishori Lal, M.L.A., Chamba .. *Member*
11. Prof. Abdul Majid Khan, Simla .. *Member*
12. Shri Parkash Chand, M.L.A., Una .. *Member*
13. Shri Babu Ram, M.L.A., Dehragopipur .. *Member*
14. Shri Devi Dass Mehta, President, D.C.C., Mahasu .. *Member*
15. Secretary (Education) to H.P.Govt. .. *Member*
16. Director of Education .. *Member-Secretary.*

2. The functions of the Committee will be to advise the Minister of Education on:—

- (i) the educational policies of the Pradesh,
- (ii) the preparation of Five Year Plans and Annual Plans of Education,
- (iii) the implementation of the Five Year Plans and Annual Plans,
- (iv) the review of achievements and short-comings of the Education Department,
- (v) the consideration of new policies including the recommendations of the Kothari Commission,
- (vi) any other matter that may be referred to it by the Hon'ble Minister.

3. The term of the Committee will be for one year.

4. The Advisory Committee may appoint sub-committees out of its own members to deal with specific subjects concerning the Department of Education. The Committee or its sub-committees may with the approval of the Chairman co-opt such non-officials and/or officials, as may be entitled deemed necessary from time to time.

5. These sub-committees will be of temporary nature.

6. The non-official members of the Committee will be entitled to T.A./D.A., etc., on the same terms and conditions as specified in the Annexure to this notification.

ANNEXURE

Travelling Allowance to Members of Himachal Pradesh Vidhan Sabha who are non-official members of the Advisory Committee on Education and other non-official members of the Committee.

1. *Travelling Allowance.*—(a) They will be treated at par with Government Servants of the First Grade, and will be entitled to a single fare of the class of the accommodation actually used, but not exceeding the fare to which the Government servants of the First Grade are normally entitled i.e., accommodation of the first class plus an allowance for incidental expenses at the rate of 35 paise per every 10 kilometres or part thereof if the journey exceed, 5 kilometres or one daily allowance at the ordinary rates prescribed in the T.A. Rules subject to a minimum of Rs. 3.00 for every 24 hours of the railway journey or part thereof, whichever is less.

(b) *Journey by Road.*—In respect of journeys by road between places not connected by rail, a member will be entitled to road mileage admissible to an officer of the First Grade under the rules and at the rates as applicable to the employees of the Himachal Pradesh Government.

In a case where journey between two places connected by rail is performed by road, rail being the ordinary mode of travelling, the road mileage will be regulated as under:—

- (i) when a journey is performed by taking a single seat in the public conveyance, he will be entitled

to actual fare paid for a seat in the public conveyance plus incidentals admissible as for a journey by rail, or the lower rate of road mileage prescribed in the T.A. Rules, limited to rail mileage, whichever is less,

- (ii) when the journey is performed otherwise the higher rate of road mileage, but limited to rail mileage will apply.

When the journey is performed by using a means of locomotion provided by the Government and the member does not pay cost of its use or propulsion he will be entitled to draw an allowance for incidental expenses at the rates admissible under S.R. 36 on the basis of distance covered by road by the direct route and restricted to one daily allowance at the ordinary rate for every twenty four hours of journey or part thereof. For this purpose, the forward and return journeys will be treated separately except when they fall on the same day.

2. **Daily Allowance.**—(a) The members will be entitled to a daily allowance for each day of meeting except when the Vidhan Sabha or a Vidhan Sabha Committee on which the member is serving is in session, at the highest rate admissible to a Government servant of the 1st Grade for the respective locality.

(b) In addition to the daily allowance for the day(s) of the meeting, a member shall also be entitled to full daily allowance for the day preceding and/or the day following the meeting if,

- (1) he arrives in the forenoon for the day preceding the day of the meeting or on an earlier day; and/or
- (2) he departs at 12-noon or in the afternoon of the day following the day of the meeting or on a later day. But he will be entitled to only half daily allowance for the day preceding and/or for the day following the meeting if,

- (a) he arrives at 12-noon or in the afternoon of the day preceding the day of the meeting, and/or
- (b) he departs in the forenoon of the day following the day of the meeting.
- (c) Daily allowance will be subject to the usual condition laid down in Supplementary Rule 73, as amended from time to time.

3. **Conveyance Allowance.**—A member, resident at a place where the meeting of the Committee is held will not be entitled to travelling and daily allowances on the scales indicated above, but will be allowed only the actual cost of conveyance hire, subject to a maximum of Rs. 10.00 per day. Before, the claim is actually paid the controlling officer should verify the claim and satisfy himself, after obtaining such details as may be considered necessary, that the actual expenditure was not less than the amount claimed. In cases, he is not satisfied with the details, he may, at his discretion, limit the conveyance allowance to road mileage.

If such a member uses his own car, he will be granted mileage allowance at the rates admissible to officials of the First Grade subject to a maximum of Rs. 10.00 per day.

4. The travelling and daily allowances will be admissible to a member on production of a certificate by him to the effect that he has not drawn any travelling or daily allowance for the same journey and halts from any other Government source.

5. The members will be eligible for travelling allowance for the journeys actually performed in connection with the meetings of the Committee from and to the place of their permanent residence to be named in advance. If any member performs a journey from a place other than the place of his permanent residence to attend a meeting of the Committee or returns to the place other

than the place of his permanent residence after the termination of the meeting travelling allowance shall be worked out on the basis of the distance actually travelled or the distance between the place of permanent residence and the venue of the meeting, whichever is less.

6. The members will not be entitled to daily allowance in connection with their assignment, when the Vidhan Sabha or the Vidhan Sabha Committee on which the members are serving is in session as they will be drawing their daily allowance under the Salaries and Allowances of Members of the Legislative Assembly (Himachal Pradesh) Act, 1963 from the Vidhan Sabha. However, if they certify that they were prevented from attending the session of the House or the Vidhan Sabha Committee and did not draw any daily allowance from the Vidhan Sabha, they would be entitled to daily allowance at the rate as prescribed.

7. The provisions of rule, 224 of the Central Treasury Rules will apply *mutatis-mutandis* in the case of over-payment made on account of T.A. to non-official members.

8. The members will also not draw T.A. and D.A. including conveyance allowance which will disqualify them from the Vidhan Sabha.

9. The Director of Education will be the controlling officer in regard to countersigning the travelling allowance bills of these members, and the bills will be prepared by the Directorate of Education (Bills and Cash Section).

10. The expenditure will be debitable to the Head "28-Education-F-General-F(1) Direction-F(1)(3) Other Allowances and Honoraria".

By order,

H. R. MAHAJAN,
Secretary.

HEALTH AND FAMILY PLANNING DEPARTMENT OFFICE OF THE ADDITIONAL SECRETARY (MEDICAL COLLEGE) NOTIFICATION

Simla-2, the 21st May, 1969

No. 3-13/67-HFP(M.C.).—Whereas it appears to the Lieutenant Governor of Himachal Pradesh that land is likely to be required to be taken by Himachal Pradesh Government at the public expense for a public purpose, namely for Teaching Institution of Medical Sciences, it is hereby notified that the land in the locality described below is likely to be required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to whom it may concern.

In exercise of the powers conferred by the aforesaid section the Lieutenant Governor of Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of any land in the locality may, within thirty days of the publication of this notice file an objection in writing before the Collector of Simla.

SPECIFICATION

District: SIMLA

Tehsil: SIMLA

Locality	Khasra No.	Area	
1	2	Big.	Bis.
SANJAULI	1	1	18
	2	0	7
	3	0	18

1	2	3	4
	4	0	6
	5	0	4
	6	2	7
	7	22	6
	Total	28	6

H. R. MAHAJAN,
Secretary.

INDUSTRIES DEPARTMENT NOTIFICATIONS

Simla-1, the 19th May, 1969

✓ **No. I&S.15(Lab.)359/58.**—In partial modification of this Department notification No. 1-1/66(Lab.) Ind., dated the 17th July, 1967 and in exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (14 of 1947) read with Government of India, Ministry of Home Affairs, S.O. No. 3371, dated the 1st November, 1966, the Lieutenant Governor (Administrator), Himachal Pradesh is pleased to appoint the Assistant Labour Commissioner, Himachal Pradesh also as Conciliation Officer for the whole of Himachal Pradesh for the purpose of the said Act with effect from 21st November, 1968.

Simla-1, the 19th May, 1969

✓ **No. I&S.15(Lab.)359/58.**—In supersession of this Department notification No. I&S. 15(Est.)369/62, dated the 28th August, 1963 and in exercise of the powers conferred by sub-section (2) of section 8 of the Factories Act, 1948 (LXIII of 1948), the Lieutenant Governor (Administrator), Himachal Pradesh is pleased to appoint the Assistant Labour Commissioner, Himachal Pradesh as Chief Inspector of Factories for the whole of Himachal Pradesh with effect from 21st November, 1968 in addition to his normal duties.

Simla-1, the 19th May, 1969

No. 1-11/66(Lab.)Ind.—In exercise of the powers vested in him vide section 28 of the Punjab Shops and Commercial Establishments Act, 1958, read with Government of India, Ministry of Home Affairs notification No.F-2/6/66 (UTL)-1, dated the 1st November, 1966 and section 18 of the Punjab Trade Employees' Act, 1940 (as extended to the State of Himachal Pradesh), the Lieutenant Governor (Administrator), Himachal Pradesh is pleased to grant exemption to the offices of Life Insurance Corporation in Himachal Pradesh from the operation of section 8(2), 9 and 10 of the Punjab Shops and Commercial Establishments Act, 1958 and section 3(2), 6 and 7 of Punjab Trade Employees' Act, 1940 (as extended to the State of Himachal Pradesh) for the period from 26th March, 1969 to 2nd April, 1969, to cope with the pressure of work due to the close of business, subject to the condition that the employees shall be paid remuneration at double the rates of their normal wages calculated by the hour.

Simla-1, the 19th May, 1969

✓ **No. I&S.15(Lab.)359/58.**—In supersession of this Department notification No. I&S. 15 (Lab)232/63, dated the 22nd October, 1963 and in exercise of the powers conferred by section 4 of the Plantation Labour Act, 1951 and sub-section (1) of section 4 of the Motor Transport Workers' Act, 1961, the Lieutenant Governor (Adminis-

trator), Himachal Pradesh is pleased to appoint the Assistant Labour Commissioner, Himachal Pradesh as 'Inspector' under the aforesaid Acts for the whole of Himachal Pradesh with effect from 21st November, 1968.

Simla-1, the 19th May, 1969

✓ **No. I&S.15(Lab.)359/58.**—In exercise of the powers conferred by section 17-B of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955, the Lieutenant Governor (Administrator), Himachal Pradesh is pleased to appoint the Assistant Labour Commissioner, Himachal Pradesh as 'Inspector' for the purpose of the said Act for the whole of Himachal Pradesh with effect from 21st November, 1968.

Simla-1, the 19th May, 1969

✓ **No. I&S.15(Lab.)359/58.**—In partial modification of this Department notification No. I&S. 15 (Lab)/PIEPA/83/63, dated the 16th September, 1963 and in exercise of the powers vested in him vide sub-clause(c) of clause 2 of the Personal Injuries Emergency Provisions Scheme, 1962 read with Government of India, Ministry of Labour and Employment notification No. F.2/13/62-Jud-II, dated 22-1-1963, the Lieutenant Governor (Administrator), Himachal Pradesh is pleased to appoint the Assistant Labour Commissioner, Himachal Pradesh as 'Claims Officer' for the whole of Himachal Pradesh for the purpose of the aforesaid scheme with effect from 21st November, 1968.

Simla-1, the 19th May, 1969

✓ **No. I&S.15(Lab.)359/58.**—In supersession of this Department notification No. I&S. 15 (Lab)232/63, dated the 8th July, 1963 and No. 1-36/66(Lab.) Ind., dated the 5th June, 1967, and in exercise of the powers conferred by (i) sub-section (3) of section 14 of the Payment of Wages Act, 1936, (ii) section 19(1) of the Minimum Wages Act, 1948, and (iii) section 6 of the Employment of Children Act, 1938, the Lieutenant Governor (Administrator), Himachal Pradesh is pleased to appoint the Assistant Labour Commissioner, Himachal Pradesh as 'Inspector' under the aforesaid Acts for the whole of Himachal Pradesh with effect from 21st November, 1968.

Simla-1, the 19th May, 1969

No. I&S.15(Lab.)359/58.—In supersession of this Department notification No. I&S. 15(Lab.)586/63, dated the 4th March, 1964 and in exercise of the powers vested in him under rule 7 of the Himachal Pradesh Trade Employees' Rules, 1951, the Lieutenant Governor (Administrator), Himachal Pradesh is pleased to appoint the Assistant Labour Commissioner, Himachal Pradesh as the Inspector of Shops and Commercial Establishments, incharge of the areas existing before 1-11-1966 (where the said rules are applicable), who may inspect the registers, accounts and records maintained by the occupier of the shop or commercial establishment and may call for such other information as may be required.

This notification shall take effect from 21st November, 1968.

Simla-1, the 19th May, 1969

✓ **No. I&S.15(Lab.)359/58.**—In supersession of this Department notification No. I&S. 15 (Lab)402/64, dated the 18th September, 1968 and in exercise of the powers vested in him vide section 2(c) of the Industrial Employment (Standing Orders) Act, 1946, read with the Government of India, Ministry of Labour and Employment notification No. 23/10/61-LRI, dated the 3rd August, 1961, the

Lieutenant Governor (Administrator), Himachal Pradesh is pleased to appoint the Assistant Labour Commissioner, Himachal Pradesh as "Certifying Officer" for the whole of Himachal Pradesh for the purposes of this Act with effect from the 21st November, 1968.

Simla-1, the 19th May, 1969

No. I&S.15(Lab.)359/58.—In supersession of this Department notification No. 21-21/66(Lab.)Ind., dated the 30th January, 1967 and in exercise of the powers vested in him vide sub-section (1) of section 19 of the Punjab Shops and Commercial Establishments Act, 1958 (Punjab Act No. 15 of 1958), read with the Government of India, Ministry of Home Affairs notification No. F.2/6/66-UTL (i), dated the 1st November, 1966, the Lieutenant Governor (Administrator), Himachal Pradesh is pleased to appoint the Assistant Labour Commissioner, Himachal Pradesh as 'Inspecting Officer' for the purpose of this Act within hilly areas of Punjab merged with Himachal Pradesh with effect from 21st November, 1968.

By order,
P. K. MATTOO,
Secretary.

REVENUE DEPARTMENT

NOTIFICATIONS

Simla-2, the 19th May, 1969

No. 1-36/68-Rev.I.—In exercise of the powers vested in him the Financial Commissioner, Himachal Pradesh is pleased to appoint the Tehsildar Nahan of District Sirmur as *ex-officio* Settlement Tehsildar, Nahan in addition to his own duties as Tehsildar for Survey and Settlement Operations in Nahan town with immediate effect.

Simla-2, the 21st May, 1969

No. 1-43/68-Rev. I.—In exercise of the powers vested in him under section 28(1)(b) of the Himachal Pradesh Land Revenue Act, 1953 (Act No. 6 of 1954) and all other powers enabling him in this behalf, the Administrator (Lieutenant Governor), Himachal Pradesh is pleased to confer on Miss V. Bhagat, P.C.S., Treasury Officer, Mahasu district, the powers of Assistant Collector 1st Grade under the said Act within the jurisdiction of Mahasu district with effect from 3rd April, 1969.

Simla-2, the 21st May, 1969

No. 1-42/68-Rev. I.—In exercise of the powers vested in him under section 28(1) (b) of the Himachal Pradesh Land Revenue Act, 1953 (Act No. 6 of 1954) and all other powers enabling him in this behalf the Administrator (Lieutenant Governor), Himachal Pradesh is pleased to confer upon Shri R. S. Chopra, DHANICS the powers of the Assistant Collector of the 2nd Grade under the said Act to be exercised within the jurisdiction of Sirmur district.

By order,
S. N. BISARYA,
Under Secretary.

Simla-2, the 21st May, 1969

No. 2-4/66-Rev. II.—Administrator (Lieutenant Governor), Himachal Pradesh is pleased to extend the appointment of Shri Jai Chand Malhotra, a whole-time Counsel (Government Advocate) for defending of Land Acquisition reference cases pertaining to the Beas-Sutlej Link Project and Uhl Hydel Project, in Mandi district on a fixed pay of Rs. 500 p.m. plus usual D.A. and C.A. as admissible under the rules for the period 1-6-1968 to 10-3-1969.

By order,
H. R. MAHAJAN,
Secretary

भाग २—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि

OFFICE OF THE LAND DEVELOPMENT COMMISSIONER NOTIFICATION

Simla, the 7th May, 1969

No. Agr.II.—Whereas the Land Development Board, Himachal Pradesh, has prepared a Land Development Scheme under section 4 of the Himachal Pradesh Land Development Act, 1954, in respect of the areas given against each Scheme indicated below:—

And whereas all the persons affected by the said scheme

and also the gram panchayat/panchayat concerned have consented to the execution of these schemes;

And whereas the State Government keeping in view the consents of the persons and after consulting the Board has sanctioned the scheme under section 5(2) of the said Act;

Now, therefore, the schemes sanctioned by the State Government under section 5(2) is hereby published in the Rajpatra, Himachal Pradesh for the information of all concerned as required by section 4 of the said Act and it shall come into force:—

Serial No.	Scheme No.	Khasra No.	Name of the beneficiary	Resident of Village, Panchayat and District	Area to be covered (in Acres)
1	2	3	4	5	6
1.	SDR. NGW-255/MDI	774, 775, 782, 786, 780, 781 & 786.	Shri Prem Singh, etc.	Thaper, Aut, Mandi	10.50
2.	SDR. NGW-254/MDI	796, 790, 789, 794 and 793.	Shri Mahant Ram	Seo, Aut, Mandi	8.00
3.	SRG-87/MDI	86, 133 & 810, etc.	Irrigation Scheme	Nahadi, Gopalpur, Mandi.	15.30
4.	SRG-S-86/MDI	1	Shri Mahant Ram	Matyara, Kot, Mandi	1.30
5.	GMR-2-6/66	135	Shri Gulaba	Ghar, Ghahar, Bilaspur.	1.68

1	2	3	4	5	6
6.	GMR-49/66	85	Shri Boharu	Bekaru, Beharna, Bilaspur.	1.40
7.	GMR-64/66	116	Shri Situ	Seo, Seo, Bilaspur	1.69
8.	GMR-63/66	—	Shri Jiwanu Ram	Myahera, Bhapral, Bilaspur.	1.23
9.	GMR-67/66	—	Shri Munshi Ram	Padyaleg, Lathwin, Bilaspur.	0.62
10.	GMR-66/66	—	Shri Jagan Nath	Panyala, Panyala, Bilaspur.	5.25
11.	GMR-65/66	—	Shri Jeet Ram	Panyala, Panyala, Bilaspur.	4.00
12.	GMR-62/66	—	Shri Hira Lal,	Dharee, Dhara, Bilaspur.	0.67

By order,
P. K. MATTOO,
Land Development Commissioner.

**OFFICE OF THE DISTRICT MAGISTRATE
DISTRICT MAHASU, KASUMPTI
ORDER**

Kasumpti, the 17th May, 1969

No. CS-Misc.E.A.1/65-3298.—In exercise of the powers conferred upon me by the Lieutenant Governor (Administrator), Himachal Pradesh, vide notification No. 20-4/62-CS, dated Simla, the 19/20th December, 1962 under clauses (c), (e), (f), (h), (i), (ii), and (j) of sub-section (2) of section (3) of the Essential Commodity Act, 1955 (10 of 1955) in relation to petroleum and petroleum products, I, Anang Pal, District Magistrate, Mahasu district, hereby order to increase five paise per litre in the Schedule I, issued under sub-section (ii) of the order No. CS-Misc.E.A.-1/65, dated the 5th November, 1955, serial number 1 to 52.

By order,
ANANG PAL,
District Magistrate.

SPECIFICATION

District: KANGRA Tehsil: HAMIRPUR

Locality village or Revenue Estate		Area in acres
Village	Tikka	
CHABUTRA	Chabutra	1.77
CHABUTRA	Saloohi	4.43
BHALET.	Bhuter	1.55
	Banal	1.34
	Sarohal	1.02
	Terkun	2.32
	Gahlian	3.81
	Mahiarpora	1.43
	Darla	5.44
	Bala-Girthan	0.83
	Bala-Bathian	0.41
	Sujanpur	4.50
Total		28.82

**PUBLIC WORKS DEPARTMENT
NOTIFICATIONS**

Dharamsala, the 16th May, 1969

No. 25/238/Gili/69(19).—Whereas it appears to the Lieutenant Governor of Himachal Pradesh that land is likely to be acquired to be taken by Government at public expenses for a public purpose, namely for construction of Hamirpur-Sujanpur road, mile 9-17 and approach road to Boat Bridge Ferry Sujanpur in District Kangra. It is hereby notified that the land in the locality described below is likely to be acquired for the above purpose.

This notification is made under provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Lieutenant Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of any land in the locality may within 30 days of the publication of this notification file an objection in writing before the Land Acquisition Officer, H.P., P.W.D., Kangra.

Sd/-
Superintending Engineer, 5th Circle,
H.P. P.W.D., Dharamsala.

Kulu, the 3rd May, 1969

No. SE-(VI)Kulu-1/LA/5/31.—Whereas it appears to the Lieutenant Governor, Himachal Pradesh, that the land is required to be taken by the Government at public expense for a public purpose, namely for construction of High Level Bridge over River Tirthan at Dhaman in mile 99/1 of Luri-Aut road, it is hereby declared that the land described in the specification below is required for the above purpose.

2. This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7 of the said Act, the Collector, Land Acquisition, Himachal Pradesh, Public Works Department, Mandi, is hereby directed to take order for the acquisition of the said land.

3. A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh Public Works Department, Mandi/the Executive Engineer, Kulu Division No. 1, H.P. P.W.D., Kulu.

SPECIFICATION

District: KULU

Tehsil: BANJAR

Locality	Khasra No.	Area Big. Bis. Bisw.		
PHATI: KUTLA-	407/2/1	0	3	0
KOTHI-BOONGA	409/2/1	0	8	0
	418/1	0	1	0
	421/1	0	5	0
	423/1	0	2	0
	424/2	0	10	0
	425/2	0	7	0
	426/2	0	1	0
Total ..		1	17	0

Kulu, the 17th May, 1969

No. SE(VI)LA 3-K1/32/39598/G.—Whereas it appears to the Lieutenant Governor, Himachal Pradesh that land notified for acquisition under section 6 of the Land Acquisition Act, 1894 vide No. PW(R)/234-RI/LA/65/3732-35G, dated 6-7-1968 published in the Rajpatra vide No. 17 of 19-10-1968 is no longer required for the purpose it was so intended and it has been decided to withdraw from the acquisition under section 48(i) of the Land Acquisition Act.

Therefore, in exercise of the powers conferred by section 48(i) of the said Act, the Lieutenant Governor of Himachal Pradesh is pleased to withdraw from the above said acquisition.

The details of land to which this withdrawal will apply is given below:—

SPECIFICATION

District: KULU

Tehsil: KULU

Locality	Village	Area Big. Bis. Bisw.		
SAJLA	PHATI, SAJLA	16	5	8
	KOTHI: BARSHAI			

REMARKS—As demarcated at site.

Sd./-

*Superintending Engineer, 6th Circle,
H.P. P.W.D., Kulu.*

Simla-3, the 16th May, 1969

No. SE-II-R-54/69-2773-76.—Whereas it appears to the Lieutenant Governor, Himachal Pradesh that land is required to be taken by the Government at public expenses for a public purpose, namely for construction of Link Road to Rohru Bridge, it is hereby declared that the land described in the specification below is required for the above purpose.

The declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894 to all whom it may concern and under the provisions of section 7 of the said Act, the Collector, Land Acquisition, H.P., P.W.D. is hereby directed to take order for the acquisition of the said land.

A plan of the land may be inspected in the office of the Collector, Land Acquisition H.P., P.W.D., Simla-9.

SPECIFICATION

District: MAHASU

Tehsil: ROHRU

Village	Khasra No.	Area Big. Bis.	
ROHRU	393	0	15
	396	0	18
	394	1	16
	395	0	6
	397	1	9
	1362/398	2	2
	1014/904/868/640	0	2
	377/2	0	3
Total ..		7	18

M. L. BANSAL,

*Superintending Engineer, 2nd Circle,
H.P. P.W.D., Simla-3.*

भाग ३—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के उप-राज्यपाल, हिमाचल बेंच आफ़ देहली हाई कोर्ट, फाइनेंशल कमिश्नर तथा कमिश्नर आफ़ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

OFFICE OF THE COMMISSIONER OF INCOME-TAX, PUNJAB, HARYANA, JAMMU & KASHMIR, HIMACHAL PRADESH AND CHANDIGARH

ORDER

Patiala, the 9th May, 1969/19th Vaisakha, 1891 (Saka)
Subject.—Jurisdiction Income tax Circle, Pathankot—
Under section 124 (i) of the Income Tax Act, 1961.

No. K-I(II)/Pathankot/105.—In pursuance of sub-section (1) of section 124 of the Income Tax Act, 1961, I hereby direct that in supersession of all the existing orders on the subject and with effect from 15-5-1969, the Income-tax Officers mentioned in column 2 of the Schedule given below shall exercise jurisdiction as defined in column 3 thereof:—

SCHEDULE

Serial No.	Designation of the Income-tax Officer	Jurisdiction
1	2	3
1.	Income-tax Officer, Ward, Pathankot*.	(i) All forest lessees, timber merchants, commission agents in timber, saw mill owners and lessees of saw mills within the Municipal limits of Pathankot town (excepting those of

1	2	3	1	2	3
		Dhaki Road which is also known as College Road and Kali Mata Mandir Road) of Pathankot tehsil other than those assessable by the Income-tax Officer District I(i), Amritsar.			Narrow Gauge Railway Crossing, Dalhousie Road from Dhangu Chowk Crossing, Mission Road, Garhi Ahata Chowk, Dhaki Road (also known as College Road) and Gurdaspur Road from outer gate of Railway Station including Warehouse of Pathankot town of Pathankot tehsil other than those assessable by the Income-tax Officers, District I(i) Amritsar and A-Ward, Pathankot.
	(ii)	All persons within the areas of Sabzi Mandi (old and new) Railway Road, from Dhangu Road crossing to outer gate of Railway Station (including Tonga Agency and Railway Station) of Pathankot town of Pathankot tehsil other than those assessable by the Income-tax Officer District I(i), Amritsar.			(ii) All persons of Pathankot tehsil (excluding persons within the Municipal limits of Pathankot town) of Gurdaspur district other than those assessable by the Income-tax Officers, District I(i), Amritsar and A-Ward, Pathankot
	(iii)	All persons within the areas of Chamba district of Himachal Pradesh other than those assessable by the Income-tax Officer, Companies Circle, Patiala.			
	(iv)	All persons in the employment of State or Central Government posted in Pathankot tehsil of Gurdaspur district of Punjab who are under the audit control of Accountant General, Simla, and Deputy Accountant General, P&T, Kapurthala other than those assessable by the Income-tax Officer, District I(i), Amritsar.	3. Income-tax Officer, C-Ward, Pathankot*.		(i) All persons within the areas of Dhangu Road (from Narrow Gauge Railway Crossing towards Chakki Bridge), Galla Mandi, Sain Garh, Prem Nagar, Model Town, Mirpur Colony, Sundernagar, Municipal Bazar (including New Municipal Bazar) and all forest lessees, timber merchants and commission agents in timber, saw mill owners, and lessees of saw mills on Kali Mata Mandir Road of Pathankot town of Gurdaspur district other than those assessable by the Income-tax
2. Income-tax Officer, B-Ward, Pathankot*.	(i)	All persons within the areas of Main Bazar from Post Office Chowk towards Amritsar Bus Stand, Dhangu Road from Gandhi Chowk to			

रामदत्त पुत्र गोविन्द दत्त, वारसान कायम-मुकामान मुसम्मान
नन्दी देवी व जीवा नन्द मुतवफ्फी, दया नन्द पुत्र रामदत्त, मोहन
चन्द, कौशल चन्द, पूरण चन्द पिसरान नरोत्तम दत्त, माकिन देहली

गेट, नाहन, मुसम्मात द्रोपदी देवी व हरि राम, प्रेमू, रामकिशन, जगत राम, बलवीर सिंह पिसरान व मुसम्मात सुख देवी, शान्ती, इन्दरा दुखतरान जय सिंह, राम सरूप, साधू राम, कृष्ण पिसरान बलाहू, बारू पुत्र मसद्दी, साकिनान मोहलया खटोला, तहसील नाहन वारसान कायम-मुकामान राम दत्त मतवफी, दया नन्द, पुत्र राम दत्त, देहली गेट-नाहन जगदीश चन्द पुत्र राम दत्त रेंज अफसर जंगलात नाहन अम्बा देवी पुत्री रामदत्त, पत्नी मोहन चन्द सैक्रीटोरीएट दफ्तर, लखनऊ (यू० पी०) वारसान कायम-मुकामान प्रेमू मतवफी प्रकाश, गोपाल, मुन्ना नाबालिग बवलायत प्रकाश बरादर खुद, साकिनान मोहलया खटोला, पिसरान प्रेमू व सीता देवी पुत्री प्रेमू, पत्नी मिठन लाल, तेली मुहल्ला, नाहन, वारसान कायम-मुकामान सुख देवी मतवफी, बनारसी, अमरू, गोपाल, पिरथी, मदन पिसरान मुसम्मात सुखदेवी, मौजा मोगी नन्द, तहसील नाहन फ्रीकसानियान।

दरखास्त हसूल मलकियत अराजी खाता नं० १/१०, खसरा नम्बर ६६, तादादी ६-१६ बीघे, माल २.५६, स्वाई ०.६४ मुआवजा १२३.५२ रुपये बरूये जमाबंदी १९६२-६३, मौजा मोहलया खटोला, तहसील नाहन।

हरगाह कि मुकद्दमा मुन्दरजा अनवान बाला म तारीख पेशी मिति ३०-६-६६ मुकर्रर है। उपरोक्त फ्रीकसानियान की तलबी के लिए अदालत हजा से समनात जारी हुए मगर वे दीदा दानिस्ता तामील समनात से गुरेज करते हैं और तामील सम्मनात नहीं होने देते लिहाजा बजरिया इश्तहार इत्तला दी जाती है कि दया नन्द, मोहन चन्द, कौशल चन्द, पूरण चन्द, शान्ती, इन्दरा, राम सरूप, साधू राम, कृष्ण व जगदीश चन्द, अम्बा देवी, प्रकाश, गोपाल, मुन्ना, नाबालग वरफाकत प्रकाश बरादर खुद, सीता देवी, बनारसी, अमरू, गोपाल, पिरथी, मदन फ्रीकसानियान तारीख मुकर्ररा पर असालतन या वकालतन बार्ज जवाबदेही हाजिर अदालत हजा होवें। बसूरत दीगर कार्रवाई एक तरफा अमल में लाई जावेगी।

आज मिति १६-५-६६ को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

आर० एल० सेठ,
कम्पनसेशन औफिसर।

इश्तहार जेर आर्डर ५, रूल २०, सी० पी० सी०

बअदालत श्री आर० एल० सेठ, कम्पनसेशन औफिसर, तहसील नाहन, जिला सिरमौर

नम्बर मिसल १२, मरजूआ १०-२-१९६६

(कम्पनसेशन अधीन धारा नं० ११, एक्ट नं० १५, सन् १९५४)

राम दीन पुत्र हीरा, पूरण चन्द पुत्र शेरी, खुशी राम नाबालिग पुत्र शेरी वरफाकत पूरण चन्द बरादर खुद, मुन्शीराम, लछमन पिसरान छोटा, साकिनान मोहलया खटोला, तहसील नाहन सायलान बनान

दयानन्द पुत्र रास दत्त वजातखुद व वारिस कायम मुकाम राम दत्त व नन्दी देवी मतवफियान मोहन चन्द, कौशल चन्द, पूरण चन्द, पिसरान नरोत्तम दत्त, मु० द्रोपदी बेवा व हरीराम, प्रेमू, रामकिशन, जगत राम, बलवीर सिंह पिसरान व मुसम्मात शान्ती, इन्दरा दुखतरान जयसिंह, अमर सिंह, पिरथी, बनारसी, गोपाल, मदन पिसरान बालकराम वारसान कायम मुकामान, सुखदेवी मतवफिया, रामसरूप, साधू राम, कृष्ण पिसरान

बलाहू, बारू पुत्र मसद्दी, साकिनान मोहलया खटोला, जगदीश चन्द पुत्र राम दत्त मतवफी हाल रेंज अफसर, जंगलात नाहन, अम्बादेवी पुत्री राम दत्त, पत्नी मोहन चन्द सैक्रीटोरीएट दफ्तर लखनऊ (यू० पी०), प्रकाश, गोपाल, मदन नाबालग वरफाकत प्रकाश बरादर खुद पिसरान प्रेमू मतवफी वारसान, सीता पुत्री प्रेमू पत्नि मिठन लाल, सकना तेली मुहल्ला नाहन, मुसमात कला पुत्री सुखदेवी पत्नी साधू राम, सा० अम्बावाला तहसील नाहन, सलोचना पुत्री सुखदेवी पत्नी मदन, साकिन बहमा पापड़ी तहसील नाहन वारसान कायम-मुकामान सुखदेवी मतवफी फ्रीकसानियान हरगाह कि मुकद्दमा मुन्दरजा अनवान बाला में तारीख पेशी मिति ३०-६-६६ मुकर्रर है उपरोक्त फ्रीकसानियान की तलबी के लिए अदालत हजा से समनात जारी हुए मगर वे दीदा दानिस्ता तामील समनात से गुरेज करते हैं और लापता रहते हैं लिहाजा बजरिया इश्तहार इत्तला दी जाती है कि मुसम्मी दया नन्द, मोहन चन्द कौशल चन्द, पूरण चन्द, हरी प्रेमू, राम किशन, जगत राम बलवीर सिंह, शान्ती देवी, इन्दरा, अमर सिंह, पिरथी बनारसी, गोपाल, मदन, राम सरूप साधू राम, कृष्णा, बारू जगदीश चन्द, अम्बा देवी, प्रकाश, गोपाल, मदन, सीता, जला देवी, सलोचना फ्रीकसानियान तारीख मुकर्ररा पर असालतन या वकालतन बार्ज जवाब देही हाजिर अदालत हजा होवें वसूरत दीगर कार्रवाई एक तरफा अमल में लाई जावेगी।

आज मिति १६-५-६६ को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

आर० एल० सेठ,
कम्पनसेशन औफिसर।

इश्तहार जेर आर्डर ५, रूल २०, सी० पी० सी०

बअदालत श्री आर० एल० सेठ, कम्पनसेशन औफिसर, तहसील नाहन, जिला सिरमौर

नम्बर मिसल १०, मरजूआ ३-२-६६

(कम्पनसेशन अधीन धारा नं० ११, एक्ट नं० १५, सन् १९५४)

श्री पूर्ण बालिग खुशी राम नाबालग वरफाकत पूरण बरादर खुद, वारसानकायम मुकामान शेरी मतवफी, लछमन पुत्र छोटा, साकिनान मोहलया खटोला, तहसील नाहन सायलान।

बनान

श्री राम दत्त पुत्र गोविन्द दत्त, वारसान कायम मुकामान मुसमात नन्दी व जीवा नन्द मतवफियान, दयानन्द पुत्र राम दत्त, मोहन चन्द, कौशल चन्द, पूर्ण चन्द, राहनान पिसरान नरोत्तम दत्त, साकिन देहलीगेट नाहन, मुसमात द्रोपदी बेवा जै सिंह, हरि राम, प्रेमू, राम किशन, जगत राम, बलवीर सिंह पिसरान व सुख देवी, शान्ती देवी, इन्द्रा, दुखतरान जै सिंह, राम सरूप, साधू, कृष्ण पिसरान बलाहू, बारू पुत्र मसद्दी, साकिनान मोहलया खटोला, तहसील नाहन, वारसान कायम मुकामान राम दत्त, मतवफी, दयानन्द, जगदीश चन्द पिसरान व अम्मी देवी पुत्री राम दत्त, साकिनान देहलीगेट नाहन, वारसान प्रेमू, मतवफी, प्रकाश, गोपाल, मदन नाबालग बवलायत प्रकाश बरादर खुद पिसरान प्रेमू, सीता पुत्री प्रेमू पत्नी मिठन लाल तेली, मुहल्ला नाहन, मुसमात कला पुत्री सुख देवी पत्नी साधू राम, साकिन अम्बावाला, तहसील नाहन, सलोचना पुत्री सुखदेवी पत्नी मदन, साकिन बहमापापड़ी, तहसील नाहन, वारसान कायम मुकामान, सुख देवी मतवफी फ्रीकसानियान।

दरखास्त हसूल मलकियत अराजी खाता नं० १/१२, खसरा नं० १०८, तादादी ११-११ बीघे, माल २.२० रुपए, स्वाई ०.५५, मुआवजा १०६.१५

रुपये, बरुये जमाबन्दी १९६२-६३ मौजा, मोहलया खटोला, तहसील नाहन

हरगाह कि मुकदमा मुन्दरजा अनवान बाला में तारीख पेशी मिति ३०-६-१९६६ मुकर्रर है उपरोक्त फ्रीकसानियान की तलबी के लिये अदालत हजा से समनात जारी हुए मगर वे दीदा दानिस्ता तामील समनात से गुरेज करने हैं लिहाजा बजरिया इश्तहार इत्तला दी जाती है कि दया नन्द, जगदीश चन्द, अम्बा देवी, मोहन चन्द, कौशल चन्द, पूर्ण चन्द, हरी राम, प्रेम, राम किशन, जगत राम, बलवीर सिंह, सुख देवी, शान्ती देवी, इन्दरा, राम स्वरूप, साधू राम, कृष्ण, बारू, प्रकाश, गोपाल, मुन्ना नाबालग बबलायत प्रकाश बरादर खुद, सीता, बनारसी, अमरू, गोपाल, पिरथी, मदन, मुसम्मात कला फ्रीकसानियान असालतन या वकालतन बगर्ज जवाबदेही तारीख मुकर्ररा पर हाजिर अदालत हजा होवें बसूरत दीगर कारंवाई एक तरफा अमल में लाई जावेगी।

आज मिति १९-५-६६ को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

आर० एल० सेठ,
कम्पनसेशन औफिसर।

इश्तहार जेर आर्डर ५, रूल २०, सी० पी० सी०

बअदालत श्री आर० एल० सेठ, कम्पनसेशन औफिसर, तहसील नाहन
जिला सिरमौर

नम्बर मिसल ४, मरजूआ ३-२-६६

(कम्पनसेशन अधीन धारा नं० ११, एक्ट नं० १५, सन् १९५४)

श्री मुन्शी राम, पुत्र छोटा साकिन महोलया खटोला, तहसील नाहन
सायल।

बनाम

श्री रामदत्त पुत्र, गोविन्द दत्त, वारसान कायम मुकामान नन्दी देवी व जीवा नन्द मतवफियान, दयानन्द पुत्र राम दत्त, मोहन दत्त, कौशल चन्द पिसरान नरोतम दत्त, पूर्ण चन्द पुत्र नरोतम दत्त, राहन, साकिनान मुस्तसल हिन्दु आश्रम, देहलीगेट नाहन, मुसमात द्रोपदी, बेवा व हरि राम, प्रेम, राम किशन, जगत राम, बलवीर सिंह पिसरान व मुसमात सुख देवी, शान्ति, इन्द्रा दुखतरान जय सिंह, राम सरूप, राधू राम, कृष्ण पिसरान बलावरू, बारू पुत्र मसद्दी साकिनान मोहलया खटोला, दयानन्द, जगदीश चन्द पुत्र राम दत्त, अम्बीका देवी पुत्री राम दत्त मतवफी प्रकाश, गोपाल, मुन्ना नाबालग बबलायत प्रकाश बरादर खुद, मुसमात सीता दुखतर प्रेम, मतवफी-बनारसी, अमरू, गोपाल, पिरथी, मदन पिसरान मुसमात सुख देवी मतवफी, वारसान कायम मुकायान मतवफियान, साकिन योगी नन्द, तहसील नाहन

फ्रीकसानियान।

दरखास्त हसूल मलकियत अराजी खाता खतौनो नं० १/९, खसरा नं० १०६-२०४, किते २, तादादी ५-१० बीघे, माल २.५८, स्वाई ०-६५ रुपये मुआवजा भूमि १२४.४९ रुपये बरुये जमाबन्दी १९६२-६३, मौजा मोहलया खटोला, तहसील नाहन।

हरगाह कि मुकदमा मुन्दरजा अनवान बाला में तारीख पेशी मिति ३०-६-६६ मुकर्रर है उपरोक्त फ्रीकसानियान की तलबी के लिये अदालत

हजा से समनात जारी हुए मगर वे दीदा दानिस्ता तामील समनात से गुरेज करते हैं और तामील समात नहीं होने देते लिहाजा बजरिया इश्तहार इत्तला दी जाती है कि मुसमी दया नन्द, मोहन चन्द, कौशल चन्द, पूर्ण चन्द, हरि राम, प्रेम, राम किशन, जगत राम, बलवीर सिंह, मुख देवी, शान्ति देवी, इन्द्रा, राम सरूप, साधू राम, कृष्ण, बारू, अम्बीक, देवी, जगदीश चन्द, प्रकाश, गोपाल, मुन्ना नाबालग बबलायत प्रकाश बरादर हकीकी, मुसमान सीता, बनारसी, अमरू, गोपाल, पिरथी, मदन फ्रीकसानियान तारीख मुकर्ररा पर असालतन या वकालतन बगर्ज जवाब देही हाजिर अदालत हजा होवें बसूरत दीगर कारंवाई एकतरफा अमल में लाई जावेगी।

आज मिति १९-५-६६ को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

आर० एल० सेठ,
कम्पनसेशन औफिसर।

इश्तहार जेर आर्डर ५, रूल २०, सी० पी० सी०

बअदालत श्री आर० एल० सेठ, कम्पनसेशन औफिसर, तहसील नाहन
जिला सिरमौर

नम्बर मिसल १५, मरजूआ १७-२-६६

(कम्पनसेशन अधीन धारा नं० ११, एक्ट नम्बर १५, सन् १९५४)

राम सरूप वल्द माता राम, कौम ब्राह्मण, साकिन शाही ओडर,
तहसील नाहन

सायलान।

बनाम

विद्या दत्त, बाबू राम, दुर्गाराम पिसरान चूही राम, किशन सिंह, रिखी राम, जगत सिंह पिसरान भुरिया, कौम ब्राह्मण, साकिनान शाही ओडर, तहसील नाहन, जिला सिरमौर

फ्रीकसानियान।

दस्तखत हसूल मलकियत अराजी खाता खतौनी नम्बर ६/१८, खसरा नम्बर २८८, ३५४, ३५५, २८४/१, २८५, ३१३, ३१४, ३१४/१ कित्ता ८, तादादी ३-१५ बीघे, माल १.६० रुपये, स्वाई ४० रुपये मुआवजा भूमि ७७.२० रुपये, बरुये जमाबन्दी १९६३-६४, मौजा शाही ओडर तहसील नाहन

हरगाह कि मुकदमा मुन्दरजा अनवान बाला में तारीख पेशी मिति ३०-६-१९६६ मुकर्रर है उपरोक्त फ्रीकसानियान की तलबी के लिए अदालत हजा से सलनात जारी हुऐ मगर वे दीदा दानिस्ता तामील समनात से गुरेज करते हैं और तामील समन नहीं होने देते लिहाजा बजरिया इश्तहार इत्तला दी जाती है कि किशन सिंह फ्रीकसानी असालतन या वकालतन बगर्ज जवाब देही तारीख मुकर्ररा पर हाजिर अदालत हजा होवें बसूरत दीगर कारंवाई एकतरफा अमल में लाई जावेगी।

आज मिति १९-५-६६ को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

आर० एल० सेठ,
कम्पनसेशन औफिसर।

इशतहार जेर आर्डर ५, रूल २०, जान्ता दीवानी
बअदालत श्री नन्द लाल कौशल, प्रतिधन अधिकारी, सोलन,
जिला महासू, हिमाचल प्रदेश।

केस नं० ६/६६ तारीख दायरा १०-२-६६ तारीख पेशी ६-६-६६
श्री माठू पुत्र मचलू, साकिन कृष्णगढ़, तहसील सोलन सायल।

बनाम

श्री यशपाल सिंह व बीरेन्द्र सिंह पिसरान विक्रम सिंह व बलवीर सिंह
पुत्र गोवर्धन सिंह, साकिनान मनीमाजरा प्रतिवादीगण।

दरखास्त हसूल मलकियत अराजी खाता खतौनी नं०
२/८, खसरा नम्बर ८७८, रकबा तादादी ५ बीघे २ बिस्वे,
मुताबिक जमाबन्दी १९६३-६४, मौज कृष्णगढ़।

हरगाह उपरोक्त मसूयलान को बजरिया इशतहार सूचित किया जाता है कि वे सब असालतन या वकालतन मिति ६-६-१९६६ सुबह १० बजे हाजिर अदालत आकर पैरवी मुकदमा व जबाब देही करें। बसूरत दीगर कार्रवाई यकतरफा अमल में लाई जावेगी। चूंकि मसूयलान को पहले भी अदालत हज्रा से कई बार नोटिस जारी किये जा चुके हैं परन्तु मसूयलान का दस्त पता दस्तयाब न होने के कारण तामील नहीं हो रही। अदालत को विश्वास हो चुका है कि तामील साधारणतया नहीं हो सकती।

आज मिति १५-५-१९६६ को मेरे दस्तखत व मोहर अदालत सहित जारी किया गया।

मोहर।

नन्द लाल कौशल,
प्रतिधन अधिकारी।

इशतहार जेर आर्डर ५, रूल २०, जान्ता दीवानी

बअदालत श्री नन्द लाल कौशल, प्रतिधन अधिकारी, सोलन,
जिला महासू, हिमाचल प्रदेश

केस नं० ७/६६ तारीख दायरा १०-२-६६ तारीख पेशी ६-६-६६
श्रीमती मन्तू बेवा सायबू व श्री माठू पुत्र मचलू, साकिन
कृष्णगढ़, तहसील सोलन सायलान।

बनाम

श्री यशपाल सिंह व बीरेन्द्र सिंह पिसरान विक्रम सिंह व बलवीर सिंह पुत्र गोवर्धन सिंह, साकिनान मनीमाजरा प्रतिवादीगण।
दरखास्त हसूल मलकियत अराजी खाता खतौनी नं० २/६, खसरा ५, किता रकबा तादादी ६ बीघे, १६ बिस्वे, ४ बिस्वांसी, साकिन कृष्णगढ़, तहसील सोलन।

हरगाह उपरोक्त मसूयलान की अदालत हज्रा से कई बार नोटिस वराए पैरवी मुकदमा किए जा चुके हैं परन्तु मसूयलान पर तामील नहीं हो रही और न ही मसूयलान का दस्त पता रिहायश मालूम ही हो रहा। अदालत को विश्वास हो चुका है कि तामील मसूयलान साधारणतया होनी मुश्किल है। अतः उपरोक्त मसूयलान को बजरिया इशतहार सूचित किया जात है कि वह सब मिति ६-६-६६ या इससे पहले जिस दिन अदालत में छुटी न हो सुबह १० बजे

असालतन या वकालतन हाजिर अदालत आ कर पैरवी मुकदमा व जबाब देही दें। वसूरत कार्यवाही यकतरफा अमल में लाई जा कर फैसला सुना दिया जावेगा।

आज मिति १५-५-६६ को मेरे हस्ताक्षर और मोहर अदालत सहित जारी हुआ।

मोहर।

नन्द लाल कौशल,
प्रतिधन अधिकारी।

इशतहार जेर आर्डर ५, रूल २०, सी० पी० सी०

बअदालत श्री प्रेम लाल शर्मा, सब-जज, प्रथम श्रेणी, उन्ना

नं० मुकदमा १३१/६८

(१) श्री बलदेव सिंह पुत्र नरैणा सिंह, (२) भगत राम पुत्र सयामा राम, (३) राम किशन पुत्र भगत राम, जात राजपूत, वासी बसदेहड़ा थाना तहसील उन्ना, जिला कांगडा। मुद्दे।

बनाम

श्री बाबू राम, (२) मेला पिसरान गौसा, (३) रखा पुत्र मईया, (४) जोगिन्द्र बालग, (५) सुरजीत उमर १४ साल, (६) सुभाष उमर ६ साल नाबालगान, पिसरान बतना व मुदायलम ५, ६ नाबालगान बबलायत जोगिन्द्र मुदाला, नं० ४, बरादर हकीकी खुद, (७) जनक सिंह, (८) तीतर सिंह पिसरान सोहनू राम, (९) भगत राम पुत्र पाला राम, जात राजपूत, (१०) ग्राम सभा, मौजा बसदेहड़ा, बजरिया श्री धनी राम, चैयरमैन, सभा मजकूर (११) ग्राम पंचायत मजकूर सकवाये बसदेहड़ा, थाना व तहसील उन्ना, जिला कांगडा मुदायलम।

इशतहार अखबार बनाम मुदायलम, नं० (४) जोगिन्द्र बालग, (५) सुरजीत उमर १४ साल, ६. सुभाष उमर ६ साल नाबालगान पिसरान बतना मुदायलम ५, ६ नाबालगान बबलायात जोगिन्द्र मुदायलम।

(दावा अजराये हुकम इम्तनाई दीवानी)

उपरोक्त मुकदमा अनवान बाला मे मुदायलम मजकूरान के नाम कई बार समनात और समनात बजरिया लफाफा रजिस्ट्री जारी हो चुके हैं। परन्तु मुदायलम मजकूरान समन की खबर पाकर रूपोश हो जाते हैं। और अदालत को यकीन हो चुका है कि मुदायलम मजकूरान की तामील आसान तरीके से नहीं हो सकती। इसलिये अब इशतहार अखबार जारी किया जाता है कि अगर मुदायलम मजकूरान अब भी हाजिर होकर पैरवी मुकदमा मजकूर की न करेंगे तो मुकदमा यकतरफा में समाप्त किया जाकर फैसला किया जावेगा।

बसबत मेरे दस्तखत व मोहर अदालत के आज बतारीख १-५-६६ को जारी किया गया।

मोहर

पी० एल० शर्मा,
सब-जज।

भाग ६—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

**LAW DEPARTMENT
NOTIFICATION**

Simla-2, the 11th February, 1969

No. 8-1/65-II.—The Payment of Bonus (Amendment) Ordinance, 1969 (2 of 1969) promulgated by the President of India, and published in the Gazette of India Extraordinary, Part II Section 1 dated 10-1-69 is hereby republished in the Rajpatra, Himachal Pradesh for the information of general public.

**"THE PAYMENT OF BONUS (AMENDMENT)
ORDINANCE, 1969**

(No. 2 of 1969)

Promulgated by the President in the Nineteenth Year of the Republic of India.

An Ordinance further to amend the Payment of Bonus Act, 1965.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. **Short title and commencement**—(1) This Ordinance may be called the Payment of Bonus (Amendment) Ordinance, 1969.

(2) It shall come into force at once.

2. **Act 31 of 1965 to be temporarily amended.**—

During the period of operation of this Ordinance, the Payment of Bonus Act, 1965, shall have effect subject

to the modification that to section 5 thereof, the following proviso shall be added, namely:—

Provided that the available surplus in respect of accounting year commencing on any day in the year 1968 and in respect of every subsequent accounting year shall be the aggregate of—

- (a) the gross profits for that accounting year after deducting therefrom the sums referred to in section 6; and
- (b) an amount equal to the difference between—
 - (i) the direct tax, calculated in accordance with the provisions of section 7, in respect of an amount equal to the gross profits of the employer for the immediately preceding accounting year; and
 - (ii) the direct tax, calculated in accordance with the provisions of section 7, in respect of an amount equal to the gross profits of the employer for such preceding accounting year after deducting therefrom the amount of bonus which the employer has paid or is liable to pay to his employees in accordance with the provisions of this Act for that year."

ZAKIR HUSAIN,
President.

V. N. BHATIA,
Secy. to the Govt. of India."

JOSEPH DINA NATH,
Under Secretary (Judicial).

**भाग ७—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं
तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं**

**ELECTION DEPARTMENT
NOTIFICATION**

Simla-2, the 24th September, 1968

No. 3-8/68-Elec.—The following notification of the Election Commission of India, dated the 19th April, 1968, is hereby published for general information:—

**ELECTION COMMISSION OF INDIA
NOTIFICATION**

*Talkatora Road, New Delhi-1, the 19th April, 1968/
Chaitra 30, 1890 (Saka)*

No. 82/4 of 1967/HP/67.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on the 15th January, 1968, by the High Court of Delhi, Himachal Bench, Simla, in Election Petition No. 4 of 1967.

**IN THE HIGH COURT OF DELHI, HIMACHAL
BENCH AT SIMLA**

C.O.P. No. 4 of 1967 *Date of decision:* 15-1-1968.
Surrinder Nath Gautam through Mr. S. S. Bedi.
Advocate with Mr. M. R. Gupta. Advocate.

Versus

Vidya Sagar Joshi through Mr. R. Sachar, Advocate
(except on 12-12-1967) and Mr. S. K. Bagga, Advocate
(on 12-12-1967).)

For approval and signature

The Hon'ble Mr. Justice

S. N. Andley.

The Hon'ble Mr. Justice

1. Whether Reporters of local paper may be allowed to see the Judgement?

2. To be referred to the Reporter or not? Yes.

3. Whether their Lordships wish to see the fair copy of the Judgement?

Coram:—

S. N. ANDLEY, J.

By Notification, dated January 13, 1967 issued by the competent authority under the Representation of People Act, 1951 (Act 43 of 1951), hereinafter referred to as "the Act", the Santokhgarh Assembly Constituency of Himachal Pradesh was called upon to elect a member to the Himachal Pradesh Vidhan Sabha. The last date for filing the nomination papers was January 20, 1967 and the last date for withdrawal was January 23, 1967.

The election was contested by Surrinder Nath Gautam, the petitioner as Congress candidate; Vidya Sagar Joshi, the respondent as an independent candidate and Shanti Sarup (who is not a party to this petition), as a Jan Sangh candidate.

Polling took place throughout the Constituency on February 18, 1967. Votes were counted at Una on February 22, 1967, and the result of the election was declared on the same date by the Returning Officer (Sub-Divisional Officer, Civil, Una). Vidya Sagar Joshi, respondent, secured 8,437 votes; Surrinder Nath Gautam, petitioner, secured 7,695 votes; Shanti Sarup aforesaid secured 2,067 votes and the rejected votes were 1,267.

According to the result, the respondent was declared elected by a margin of 742 votes secured by him over and above the votes secured by the petitioner.

This petition challenges the election of the respondent on the ground that the respondent has been guilty of the corrupt practices mentioned in sub-sections (4), (5), (6) and (7) of section 123 of the Act. It was filed in the Court of the Judicial Commissioner on or about April 4, 1967 and has come to be dealt with by this Court as a result of the reorganisation of Himachal Pradesh and the extension of the jurisdiction of this Court thereto.

Seven Issues were framed by Hardy J., who also recorded the statements of P.Ws. 1 to 24. The rest of the evidence was recorded by me.

One of the Issues, namely, Issues No. 5 which is:—

“Whether the respondent obtained or procured or attempted to obtain or procure the assistance of persons in the service of the Government for the furtherance of his election prospects as mentioned in para 5 (iv) of the petition.”

Pertaining to the corrupt practice contemplated by section 123 (7) of the Act was not pressed by the petitioner at the time of final arguments.

Two other Issues, namely, Issues Nos. 6 and 7 were decided by Hardy J. by his order, dated May 25, 1967. These two Issues are as follows:—

“Issue No. 6: Whether the various acts alleged by the respondent in sub-paras (i) to (iv) of his additional pleas amount to corrupt practices in law.

Issue No. 7: If issue No. 6 is decided in the affirmative whether the respondent can be allowed to raise such pleas in the present petition.”

The additional pleas raised by the respondent which gave rise to Issue No. 6 are: “For purposes of section 99 of the Representation of the People Act, 1951, it will be found that the petitioner himself committed various corrupt practices, *inter alia*, the following;

(i) He incurred expenses much more than the prescribed limit and so contravened the provisions of section 77 of the Act;

(ii) On 11-2-1967 when Dr. Y. S. Parmar visited the constituency in support of the petitioner, the petitioner lavishly entertained hundreds of voters with a view to obtaining the corrupt practice of bribery;

(iii) On 15-2-1967 while Shri Hari Dass formerly Development Minister, visited the constituency at village Kaithen and Naggal Kalan, assistance of Government servants was obtained and procured and water pipes were fitted in the two villages with a view to obtain the votes of the voters. Thereby the petitioner committed the corrupt practice of obtaining assistance of Government servants and also the corrupt practice of bribery; and

(iv) Through Shri Vidya Sagar, Manager of the Co-operative Marketing Society, Una who was the petitioner's agent, the petitioner distributed sugar and galvanised iron sheets to a large number of voters, thereby committing the corrupt practice of bribery.”

Hardy J. held by his aforesaid order that the acts alleged in the aforesaid additional pleas did amount to corrupt practices, but he decided Issue No. 7 against the respondent and observed that the respondent cannot be allowed to raise the pleas covered by sub-paras (i) to (iv) of his additional pleas in the present petition. The Issue is therefore decided in favour of the petitioner and against the respondent.

I have, therefore, to deal in this judgement only with Issues Nos. 1 to 4. Issues Nos. 1 and 2 are inter-connected to a limited extent. They deal with the corrupt practice contemplated by sub-section (6) of section 123 of the Act. These two Issues, as framed, are set out hereunder:—

“Issue No. 1: Whether the respondent incurred or authorised incurring of expenditure more than Rs. 2,000 in connection with his election in contravention of section 77 of the Representation of People Act, 1951 as detailed in para 5 (i) (a) to (h) in the petition.

Issue No. 2: Whether the two sums of Rs. 200 and Rs. 500 paid by the respondent to the Himachal Pradesh Congress Committee for obtaining the Congress ticket form part of election expenses.”

In connection with these two Issues I may mention, that the respondent filed his Return of Expenses

(Exhibit R. 10) along with vouchers in support of most of the expenses shown therein. The total expenses as shown amount to Rs. 1,862.05. The case of the petition is that the respondent exceeded the limit of Rs. 2,000 which was fixed for Himachal Pradesh for election expenses by incurring the following expenses in addition to those shown in his return:—

- (a) A sum of Rs. 500 and another sum of Rs. 200 paid by the respondent as security and as application fee, respectively, to the Himachal Pradesh Congress Committee for the allotment of a Congress ticket.
- (b) A sum of Rs. 880 being the expenses of running a free kitchen for the respondent's workers and supporters.
- (c) A sum of Rs. 610 incurred for petrol for the respondent's own jeep No. PNH 5090 and hire amount and diesel for the truck No. PNQ 1771.
- (d) A sum of Rs. 170 being the hire charges for a loud-speaker taken by the respondent.
- (e) A sum of Rs. 500 either as notional expenses as hire charges for his own jeep No. PNH 5090 for the same amount on account of wear and tear of the jeep.
- (f) A sum of Rs. 130 paid as toll tax for the said jeep and the said truck.
- (g) A sum of Rs. 143 for hire charges; diesel oil and toll tax in respect of truck No. PNQ 3411.
- (h) A sum of Rs. 500 paid to a drama party for giving songs and dramatic performances from January 23 or 24 to February 15, 1967 in various villages in the constituency.

I may state here that the amounts mentioned at items (f), (g) and (h) above were the subject matter of the pleadings contained in clauses (f), (g) and (h) of para 5 (i) of the petition. But, the petitioner's counsel conceded at the time of final arguments that there is no evidence in respect of these items of expenses. The petitioner's claim in respect of the amounts mentioned in clauses (f), (g) and (h) of sub-para (i) of para 5 of the petition is, therefore, rejected.

The petitioner has made allegations with respect to the amounts of Rs. 500 and Rs. 200 paid by the respondent to the Himachal Pradesh Congress Committee as security and application fee, respectively in paragraph 5 (i) (a) of the petition in these words:—

“That the petitioner and the respondent were members of the Indian National Congress much before the present area of Una Tehsil was merged with Himachal Pradesh on 1-11-1966. The petitioner was a Congress M.L.A. of the Vidhan Sabha of Punjab State before that date, and on the re-organisation of Punjab State, he became an M.L.A. of the Himachal Pradesh Assembly. The respondent was a member of the Punjab Pradesh Congress Committee before 1-11-1966 and after that he became a member of the Himachal Pradesh Congress Committee and later on became a member of its Executive Committee. Both of them applied for a Congress Ticket from Santokhgarh Assembly Constituency to the Election Committee of Himachal Pradesh Congress Committee; District Congress Committee, Kangra and Mandal Congress Committee, Santokhgarh, in response to a circular letter issued by the said Congress Committee, dated 4-12-1966. According to this letter a new candidate for election to the Assembly seat was to pay Rs. 500 as security and Rs. 200 as application fee, and the latter was not refundable.

Regarding the security deposit, the condition laid down in the circular letter was:—

“Security deposit will be refundable to the candidate if he or she is not selected. In case if a candidate or candidates contest the election against the official candidate, the security deposit and application fee will be forfeited. Without application and non-deposit of security and fee in the Himachal Pradesh Congress Committee Office, no case will be considered.”

So the respondent—Shri Vidya Sagar paid Rs. 200 to the Himachal Pradesh Congress Committee as application fee and Rs. 500 as security deposit, accepting the conditions laid down in the circular letter, holding himself out as a prospective candidate about or before 2-1-1967. But his name was not recommended by the Election Committee of Himachal Pradesh Congress and his application was finally rejected by the Central Parliamentary Board of the All-India Congress Committee about 9/10th January, 1967. However, the Parliamentary Board awarded the Congress Ticket for Santokhgarh Assembly Constituency to the petitioner who accordingly fought the election in question as a Congress Candidate. The respondent, dissatisfied with the decision of the Central Parliamentary Board, decided to fight the said election as an independent candidate and filed his nomination paper by 20-1-1967. His nomination was declared valid by the Returning Officer on 21-1-1967, after scrutiny and thus he became a validly nominated candidate on that date. There was time for him to withdraw his candidature till 23-1-1967, but he did not do so and contested the election as independent candidate opposing the petitioner as an official Congress candidate. Thus, the respondent became liable for the forfeiture of his security of Rs. 500 deposited with Himachal Pradesh Congress Committee on 23-1-1967, when he did not withdraw his candidature. Although the respondent had deposited this sum of Rs. 500 with the above said Congress Committee before 13-1-1967, but it became subject to forfeiture on the dates when he filed his nomination papers as an independent candidate and did not withdraw his candidature, and this amount has actually been forfeited by the said Congress Committee. Similarly although Rs. 200 were paid by the respondent to the said Congress Committee along with his application for the Congress Ticket before 13-1-1967, but it related to the period when he was to file his nomination papers after the award of the Congress Ticket to him on any date between 13-1-1967 and 20-1-1967. So in fact, these two items of Rs. 500 and Rs. 200 were incurred and paid by the respondent in connection with his election to Congress Committee and they were bound to be included in his Return of Election Expenses. The inclusion of these two items singly and collectively takes the figure of his election expenses beyond the prescribed limit.

In the opening part of para 5 of his written statement, the respondent denied the allegations made in para 5 and in its sub-paragraphs and clauses of the petition. With regard to these two amounts of Rs. 500 and Rs. 200 the specific plea of the respondent is urged in the following words:—

“The two sums of Rs. 200 and Rs. 500 paid by the respondent to the Himachal Pradesh Congress Committee, for obtaining the Congress Ticket, and as security, were not, and cannot be treated, as expenses in connection with his election. In any case they were not incurred between 13-1-1967 and 22-2-1967.”

Even if the denial in the opening part of paragraph 5 of the written statement is taken into consideration,

then, read with the reply to clause (a) of sub-para (i) of paragraph 5 of the petition, the case of the respondent is that these two amounts were paid before January 13, 1967 and that as they were not incurred between January 13, 1967 and February 22, 1967, they could not be treated as expenses in connection with his election. In my view, the defence set out with respect to these two amounts cannot be construed to challenge the factum or legality of the forfeiture.

Section 77 as it stood prior to 1956 was amended by section 42 of the Representation of the People (Second Amendment) Act, 1956 (XXVII of 1956), hereinafter referred to as “the second Amendment Act” and, as amended, runs as under:—

“Account of election expenses and maximum thereof.—

- (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date of publication of the notification calling the election and the date of declaration, of the result thereof, both dates inclusive.
- (2) The account shall contain such particulars, as may be prescribed.
- (3) The total of the said expenditure shall not exceed such amount as may be prescribed.”

Accordingly to this section, only those expenses which were incurred by a candidate in relation to his election between the dates specified in section 77 can be regarded as election expenses. The question, therefore, is whether these two amounts were incurred between the two dates mentioned in the section or on December 24, 1966 when, according to the evidence, they were paid by the respondent to the Himachal Pradesh Congress Committee.

In order to determine that question it will be necessary to ascertain whether on December 24, 1966 the respondent was a candidate within the meaning of section 79 (b) of the Act which defines a candidate as meaning “a person who has been or claims to have been duly nominated as a candidate at any election, and any such person shall be deemed to have been a candidate as from the time when with the election in prospect he began to hold himself out as a prospective candidate”.

By making the application dated December 24, 1967 (Exhibit P.W. 1/2) and the payment to the Himachal Pradesh Congress Committee, the respondent communicated his intention to the outside world to stand as a candidate for election. It was on this date that the respondent decided to contest the election. It is not necessary that the holding out should be to the entire constituency. If the intention is expressed to a certain body which has to decide whether to adopt him from the concerned constituency, any declaration made to that body would, in effect, be addressed to the constituency through its accredited representative. The Supreme Court has held in A.I.R. 1955 S.C. 775 (*S. Khader Sheriff V Mannuswamy*):

“The question when a person becomes a candidate must be decided on the language of S. 79 (b). Under that section, the candidature commences when the person begins to hold himself out as a prospective candidate. The determining factor therefore is the decision of the candidate himself, not the act of other persons or bodies adopting him as their candidate.”

In ‘The Lithchfield Case’, 5 O’M and H I (A) at P. 36, Pollock B. Observed;

“I think the proper mode of judging a question of this kind is to take it from the point of view of the

candidate himself. Every man must judge when he will throw himself into the arena. . . . But it is his own choice when he throw down the glove and commences his candidature."

When, therefore, a question arises under S. 79(b) whether a person had become a candidate at a given point of time, what has to be seen is whether at that time he had clearly and unambiguously declared his intention to stand as a candidate, so that it could be said of him that he held himself out as a prospective candidate. That he has merely formed an intention to stand for election is not sufficient to make him a prospective candidate, because it is of the essence of the matter that he should himself fout as a prospective candidate. That can only be if the communicates that intention to the outside world by declaration or conduct from which it could be inferred that he intends to stand as a candidate."

There is, therefore, no doubt that the respondent was a candidate within the meaning of section 79 (b) of the Act on December 24, 1966, when he paid these two amounts to the Himachal Pradesh Congress Committee. The question, however, is whether these amounts would be deemed to have been incurred on December 24, 1966, when they were paid or between the two dates mentioned in section 77 of the Act. To determine this, the petitioner has produced the circular letter dated December 24, 1966 (Exhibit PW. 1/1) issued by the Himachal Pradesh Congress Committee; the application dated December 24, 1966 (Exhibit PW. 1/2) made by the respondent for the Congress Ticket and the letter dated February 6, 1967 (Exhibit PW. 1/4) recording the forfeiture of these two amounts. The conditions attached to the said circular letter include a condition that "security deposit will be refundable to the candidates if he or she is not selected. In case if a candidate or candidates contest the election against the official candidate, the security deposit and application fee will be forfeited. Without application and non-deposit of security and fee in the Himachal Pradesh Congress Committee Office, no case will be considered." The application (Exhibit PW. 1/2) contains a statement by the respondent that he has deposited the necessary security and application fee "as per rules framed by the Pradesh Election Committee, in the office of the Himachal Pradesh Congress Committee, The Mall, Simla-1".

There is, therefore, no doubt that the condition as to the forfeiture of the security deposit and application fee was accepted by the respondent. The fact that these two amounts were forfeited by the Himachal Pradesh Congress Committee as mentioned in the notice dated February 6, 1967 (Exhibit PW. 1/4) has not been denied (by the respondent in his written statement. Therefore, it is clear that one of the conditions to which the respondent agreed, as pointed out above, was that the security deposit and application fee will be forfeited if the respondent contested the election against the official Congress candidate. It is also clear that by contesting the election against the official Congress candidate, the respondent did commit the breach of this condition.

The corrupt practice is for incurring or authorising of expenditure in contravention of section 77 of the Act. The word "incurring" necessarily postulates a pecuniary liability on the candidate himself even though the expense may have been authorized by the candidate or his election agent.

The word "incur" was construed by a Division Bench of the Rajasthan High Court in the case reported in *Sheopat Singh V. Nursihc handra*, A.I.R. 1958 Rajasthan

324, where the allegation was that a vehicle had been lent gratuitously to a candidate and it was claimed that the reasonable hire of this vehicle should have been included in the Return of Expenses. The learned Judges say:—

"One incurs expenditure when one actually spends money. One authorises expenditure when one incurs pecuniary liability."

A Division Bench of the Assam High Court has dealt with a similar question in the case reported in A.I.R. 1959 Assam 139 (*Biresh Misra V. Ram Nath Sarma and others*) where it has been stated.—

"One cannot be said to incur an expense unless he actually spends the money. The expenditure also cannot be said to have been authorized unless any pecuniary liability is incurred by a person."

The Madras High Court in its judgement reported in A.I.R. 1960 Madras 85 (*M. A. Muthiah Chettiar V. Sa. Ganesan*) has also accepted the meaning given to the word "incur" in A.I.R. 1958 Rajasthan 324.

In so far as the amount of Rs. 200 as application fee is concerned, it is provided in the conditions attached to the circular letter dated December 4, 1966 (Exhibit PW. 1/1) that "each new candidate for the election of the Assembly seat will pay Rs. 500 as security deposit and Rs. 200 as an application fee and latter is non-refundable." The expense of Rs. 200 was, therefore, incurred on December 24, 1966 and since it was not incurred between the two dates specified in section 77 of the Act, it cannot be treated as an election expense.

In so far as the amount of Rs. 500 as security deposit is concerned, it was paid, as stated above, on December 24, 1966. The contention of the respondent is that, like the application fee of Rs. 200 this amount of Rs. 500 paid as security was also incurred on this date and not on any date between January 13, 1967 and February 22, 1967. It is further contended that even if it was forfeited on February 6, 1967, by the letter of that date (Exhibit PW. 1/4), the forfeiture must relate back to December 24, 1966. It is difficult to accept these contention. This amount of security was, according to the aforesaid condition, refundable. It was liable to forfeiture only if the respondent contested the election against the candidate put up by the Congress. Therefore, it would be liable to forfeiture and be forfeited only when this condition was violated. The condition of not contesting the election against the candidate put up by the Congress was violated irrevocably on January 23, 1967 when the respondent did not withdraw his candidature and, in fact, contested the election against the candidate put up by the Congress. The forfeiture would come into effect only on or after January 23, 1967 and not before. In my view, this amount of Rs. 500 paid as security by the respondent to the Himachal Pradesh Congress Committee was incurred by him only when liability in respect thereof was incurred by him and that undoubtedly was on or after January 23, 1967 and at no time before.

It is then contended by the respondent that the act of forfeiture by the Himachal Pradesh Congress Committee is not proved because the receipt by the respondent of the letter dated February 6, 1967 (Exhibit PW. 1/4) of the Himachal Pradesh Congress Committee is not proved. To prove the act of forfeiture, the petitioner has produced Amar Nath Bazwaria (PW. 1). This witness is the Secretary of the Himachal Pradesh Congress Committee. Although a copy of this letter has been produced, the postal receipt relating to the despatch of the original of this letter has not been produced and this witness has stated—"The actual for expulsion was communicated to him under Exhibit PW. 1/4. I have not brought with me the postal receipt relating to the despatch of the original of Exhibit PW. 1/4, but I have mentioned this

fact at the foot of Exhibit PW. 1/4." In his statement the respondent has denied having received the original of Exhibit PW. 1/4. In the absence of the postal receipt, the receipt of this letter, dated February 6, 1967, by the respondent cannot be held to be proved on evidence, but, as I have stated earlier, the factum and validity of the forfeiture is not denied by the respondent in his written statement. In any case, to my mind, the despatch to or the receipt by the respondent of the letter, dated February 6, 1967 (Exhibit PW. 1/4) is immaterial. The condition with regard to the payment of this amount is that it "will be forfeited" if the applicant for a Congress Ticket contests the election against the official Congress candidate. No overt act by the Himachal Pradesh Congress Committee for forfeiting this amount is necessary. In my view, the amount stands forfeited the moment the applicant for the Congress Ticket contests the election against the official Congress candidate. The words "will be forfeited" tantamount to the words "shall stand forfeited."

Faced with these difficulties, the respondent has argued that the consideration or object of the agreement relating to the forfeiture of the security deposit is hit by section 23 of the Indian Contract Act in that it is of such a nature that, if permitted, it would defeat the provisions of the Act and is opposed to public policy. These pleas have not been raised in the written statement and it is not really open to the respondent to raise these pleas at the stage of arguments. But, since the parties have addressed me on these questions, I will give my own views in the matter.

It is difficult for me to see how the agreement about forfeiture, as in this case, would defeat the provisions of the Act. As has been pointed out by the Supreme Court in A.I.R. 1954 S.C. 686 (*Jamuna Prasad Mukhariya and others V. Lachhi Ram and others*):—

"The right to stand as a candidate and contest an election is not a common law right. It is a special right created by the statute. . . . Persons have no fundamental right to be elected members of Parliament."

There is no doubt that the Act lays down the qualifications which, if fulfilled, give a right to any voter to contest an election, but there are no provisions in the Act which will be defeated if a voter agrees not to contest any election. The only relevant provision in the Act is section 123 (I) (B) (a) which provides that the receipt of, or agreement to receive any gratification, whether as a motive or a reward by a person for standing or not standing as, or for withdrawing or not withdrawing from being, a candidate is a corrupt practice. The respondent cannot be said to have received or agreed to receive any gratification for not standing as a candidate. Even if he has a right to contest the election, he has, by his agreement, not only agreed to pay on breach of a condition a certain amount, but he has waived his right to contest the election. I, therefore, do not find this agreement or its consideration or object being of such a nature as to defeat the provisions of the Act. The other cases cited on behalf of the respondent which are reported in A.I.R. 1966 All. 134 (*Prabhat Bank Ltd., and another V. Babu Ram*); A.I.R. 1966 Madras 13 (*Lilly White V. R. Manuswami*) and A.I.R. 1963 Punjab 516 (*Mool Chand V. Rulia Ram Panna Lal and another*) have no bearing on the question.

The next contention is that such an agreement is opposed to public policy. In A.I.R. 1959 S.C. 781 (*Gharulal Patakh V. Mahadeodas Maya and others*), the Supreme Court has observed:—

"Public policy or the policy of the law is an illusive concept; it has been described as "untrustworthy guide", "variable quality", "uncertain one", "unruly

herse", etc. The primary duty of a Court of Law is to enforce a promise which the parties have made and to uphold the sanctity of contracts which form the basis of society, but in certain cases, the Court may relieve them of their duty on a rule founded on public policy; the doctrine of public policy is extended not only to harmful cases but also to harmful tendencies; this doctrine of public policy is only a branch of common law, and, just like any other branch of common law, it is governed by precedents; the principles have been crystallized under different heads and though it is permissible for Courts to expound and apply them to different situations, it should only be invoked in clear and incontestable cases of harm to the public: though the heads are not closed and though theoretically it may be permissible to evolve a new head under exceptional circumstances of a changing world, it is advisable in the interest of stability of society not to make any attempt to discover new heads in these days."

The question is whether the condition about forfeiture is a harmful tendency to which the doctrine of public policy as laid down by the Supreme Court can be extended. In my opinion, a condition as is to be found in this case is a healthy rather than a harmful tendency because it tends to maintain discipline in politics. A somewhat similar situation arose in a case decided by the Punjab High Court which is reported in 1960 (XXI) Election Law Reports 286 (*Amir Chand V. Shrimati Sucheta Kriplani*), where it is observed:—

"a political leader is within his rights to keep discipline in his party and to stop party rift at the time of general elections and an advice by the leader of a party, however influential he may be, to a candidate to withdraw his candidature in the interests of party discipline, cannot amount to undue influence within section 123 (2)."

I, therefore, find nothing illegal in the agreement with regard to the forfeiture of the security deposited by the respondent with the Himachal Pradesh Congress Committee.

The amount of Rs. 500, therefore, stood forfeited on or after January 23, 1967, that is, between the date of publication of the notification calling the election (January 13, 1967) and the date of declaration of the result thereof (February 22, 1967) and was incurred between these two dates. It should, therefore, have been included in the return of expenses filed by the respondent. If this amount is added to the Return of Expenses filed by the respondent, the total amount would be in excess of Rs. 2,000. The respondent has, therefore, committed the corrupt practice contemplated by section 123 (6) of the Act by not including the amount of Rs. 500 paid by him to the Himachal Pradesh Congress Committee in his Return of Expenses.

Coming back to Issue No. 1, the next item of expense which, according to the petitioner, should have been included in the Return of Expenses filed by the respondent relates to a sum of Rs. 880 which is alleged to have been incurred by the respondent for running a kitchen in the house of Vidya Shahni (RW. 12) for the purpose of catering food, tea etc. for the workers and supporters of the respondent. The pleadings with regard to this item of expense are contained in paragraph 5 (i) (b) of the petition, where it is stated:—

"That the respondent had opened his Election Office on the first storey of the shop of M/s. Rulia Ram Ram Kumar, Grocers, Santokhgarh, about the 14th/15th January, 1967, and a board to that effect had been put up by the respondent at that building.

Shri Sodhi Ram of Kungrat, a relation of the respondent, was in charge of that office which was being visited by the workers and supporters of the respondent. The respondent and his worker and supporter—Shri Sodhi Ram, with the consent of the respondent, had set up a kitchen in the house of Shrimati Vidya Shahni, widow of Shri Mangat Ram in Santokhgarh almost about the same time when the election office was set up. This kitchen continued to be run for the purpose of catering food, tea etc. to the workers and supporters of the respondent till 18-2-1967. Flour worth Rs. 200 was purchased from the Flour-Mill of Shri Om Parkash of Santokhgarh from time to time during this period. Fire-wood worth Rs. 80 was purchased from M/s. Ram Asra-Om Parkash and Gauri Shankar-Ram Asra; ghee, sugar; tea etc. worth Rs. 500 were purchased from the shop of Rulia Ram-Ram Kumar; vegetables worth Rs. 50 were purchased from Santa shopkeeper. Tea etc. was catered to the workers of the respondent by Jagga Halwai worth Rs. 50. All these expenses were incurred by the respondent or Shri Sodhi Ram with the consent of the respondent at Santokhgarh. The entire expenses incurred on the establishment of the office and running the kitchen are to the tune of Rs. 880, but not a single pie on this account has been shown by the respondent in his return of election expenses. The addition of this amount also makes the election expenses incurred by the respondent, exceed the limit of Rs. 2,000."

The respondent, apart from the general denial in the opening part of paragraph 5 of his written statement, has specifically pleaded in paragraph 5 (i) (b) as follows:—

"It is wrong, and so categorically denied that the respondent or Shri Sodhi Ram had set up a kitchen in the house of Shrimati Vidya Shahni of Santokhgarh (who is a relation of the respondent) and that any expenses as alleged were incurred by the respondent or by Shri Sodhi Ram."

Paragraph 5 (i) (b) of the replication filed by the petitioner merely denies the denial contained in paragraph 5 (i) (b) of the written statement and it is not necessary to set it out.

As will be seen from the pleadings, the amount of Rs. 880 is made up of the following items:—

Rs. 200 for flour purchased from Om Parkash (PW. 18).

Rs. 80 for fire-wood purchased from M/s. Ram Asra-Om Parkash and Gauri Shankar-Ram Asra.

Rs. 500 for ghee, sugar, tea etc. purchased from Rulia Ram-Ram Kumar.

Rs. 50 for vegetables purchased from Santa (PW. 10).

Rs. 50 for tea catered by Jagga Halwai.

The running of the kitchen in the house of Vidya Shahni (RW. 12) is sought to be proved by the evidence of Ram Swarup (PW 14), Roshan Lal (PW 16), Ram Nath (PW 17), Om Parkash (PW 18), and the petitioner (PW 25). Although the total of the expenses so incurred as given in paragraph (i) (b) of the petition was Rs. 880, evidence has been given only to the extent of Rs. 335. For proving the amounts which go to make up a sum of Rs. 335 reliance is placed on the evidence of Om Parkash (PW 18) for the purchase of flour worth Rs. 105/-; Santa (PW. 19) for the purchase of Vegetables worth Rs. 150 and Jagannath (PW 20) for the purchase of tea worth Rs. 80. There is no evidence regarding wood, ghee or sugar.

As stated above, the witness to prove the purchase of flour is Om Parkash (PW 10). He states that he has been running a flour-mill since 1958 in Santokhgarh; that Sodhi Ram (RW 11), admittedly a worker of the respondent, had bought flour from him on three or four occasions and had paid Rs. 105 for it; that payment for

the flour was in cash and no receipts were issued in respect of the purchases and that he did not keep any account of the grinding work done by him. In cross-examination he had admitted that he does not maintain any account of the flour stocked by him even though he knew that the person stocking wheat flour has to maintain regular accounts; that he did not maintain any register showing the daily sales of flour and that he and the petitioner belong to the same village. The evidence of this witness does not appear to be true. It is difficult for me to believe that a person who is running a flour mill would not keep any accounts or registers to show his day-to-day business. Assuming, however, that he did sell any flour to Sodhi Ram (RW 11) there is no evidence to connect such purchase with the respondent to the extent of conclusively proving that the purchase price of this flour was incurred by the respondent. The interest of this witness with the petitioner is demonstrated by the fact that he and the petitioner belong to the same village. His source of knowledge for saying that the flour was required for feeding the respondent's workers is, according to this witness, Sodhi Ram himself, because this witness says in cross-examination:—

"I asked Sodhi Ram why he needed flour. He said that these were election days and workers had to be fed."

Flour is not such an article about the reason for the purchase of which the shop keeper would be inquisitive even though the shop keeper is related to the purchaser as this witness says that he was related to Sodhi Ram. I, therefore, reject the testimony of this witness to prove the purchase of flour to the extent of Rs. 105.

The witness who has been produced to prove the purchase of vegetables is Santa (PW 19). One thing may be mentioned and that is that whereas in paragraph 5 (1) (b) of the petition the value of the vegetables purchased is Rs. 50 this witness has stated that vegetables worth Rs. 150 were purchased from him. In examination-in-chief this witness first stated that one Joshi used to buy vegetables from him but, he again said that Sodhi Ram (RW 11) was buying the vegetables. He has also admitted that the payment was in cash and that he did not maintain any accounts. The fact that this witness is interested in the petitioner is demonstrated by his admission in cross-examination that he had come to give evidence, without any summons from the Court along with other witnesses of the petitioner. He has also admitted in cross-examination that Sodhi Ram (RW 11) was not the only person buying vegetables from him and sometimes the vegetables were bought by a cook. He does not know Vidya Shahni (RW 12). In answer to a Court question, he stated that he had not talked to anybody about Sodhi Ram (RW. 11) having purchased vegetables from him and that he had not told the petitioner at any time that he had sold vegetables to Sodhi Ram (RW. 11). In my opinion, this witness is a got up witness and I do not find it possible to place reliance on his evidence to prove the purchase of vegetables for consumption in the house of Vidya Shahni during the elections in connection with the election of the respondent.

The witness who has been produced to prove the supply of tea is Jagannath (PW. 20). He has stated in his examination-in-chief that he used to supply tea and sweets to the respondent for entertainment of his workers and members of the dramatic party. As has been stated earlier the expenses pertaining to the dramatic party were the subject matter of paragraph 5 (1) (b) of the petition and it was conceded before me that there was no evidence to show that the respondent had engaged a dramatic party in connection with his election. That being so, the evidence of this witness, when he says that he supplied tea for entertainment of the members of the dramatic

party also cannot, in view of the concession, be true. If that part of the statement is false, no such reliance can be placed on the testimony of this witness. This witness further says that he supplied tea and snacks against chits issued by Sodhi Ram (R W 11). But, those chits have not been produced. He admits that he does not maintain any account. His explanation in cross-examination that he has returned those chits to Sodhi Ram does not inspire any confidence. I, therefore, do not place any reliance upon the testimony of this witness.

The result of my finding that the alleged expenses on the purchase of flour, vegetables and tea have not been proved would be that the allegation of running a free kitchen in the house of Vidya Shahni (RW 12) is false.

On the other hand, there is overwhelming evidence to disprove the allegation of a free kitchen. This evidence consists of the statements of Bachitar Singh (RW 9), Munshi Ram (RW 10), Sodhi Ram (RW 11), Vidya Shahni (RW 12), Kashmiri Lal (RW 16) and the respondent himself (RW 17). These witnesses are undoubtedly the workers and relations of the respondent and the last named witness is the respondent himself. The petitioner's criticism that they are all interested witnesses and that there is no independent evidence to disprove the expense of the kitchen is not justifiable. This evidence completely displaces the evidence of Ram Swarup (PW 14), Roshan Lal (PW 16), Ram Nath (PW 17), Om Parkash (PW 18) and the petitioner himself (PW 25), particularly in view of my finding that the purchases of the provisions have not been proved. Even assuming that some people were seen being fed in the house of Vidya Shahni (RW 12) during the election would not lead, beyond any reasonable doubts to the conclusion that such feeding was at the expense of the respondent.

The next item of alleged expense relates to the commission of the respondent to show an aggregate amount of Rs. 1,107.66 from the Return of Expenses. Out of this, a sum of Rs. 497.66 relates to petrol, diesel and mobile oil purchased for a jeep and a truck and Rs. 610.00 relates to the hire of the truck. The allegations in respect of these amounts are contained in paragraph 5 (i) (c) of the petition which states:—

"That the respondent has shown in his Return of Election Expenses that he has used petrol, diesel and mobile-oil for his vehicles PNH-5090 (Jeep) and PNQ 1771 (Truck) worth Rs. 852.34. But, in fact, he has used petrol, diesel and mobile-oil in these two vehicles worth Rs. 1,350 and has omitted to include Rs. 497.66 on this account. The respondent has shown Rs. 160 as hire charges for truck No. PNQ 1771, but in fact he has hired this truck for 11 days; 12th to 22nd February, 1967 and has paid the hire charges for its use in connection with his election, i.e., Rs. 770 to its driver Mr. Sewa Singh through Shri Bhagwant Singh, Incharge Truck Union, Branch, Mahilpur. Thus he has failed to include Rs. 610 in his Return of Election Expenses which he was bound to include."

The specific plea of the respondent in respect of this expense is contained in paragraph 5 (i) (c) of the written statement and it is this:—

"It is wrong and so denied that the respondent incurred the expense of Rs. 497.66 over and above the amount of Rs. 852.34 shown by him on account of petrol, diesel oil and mobile-oil for the vehicles PNH 5090 (Jeep) and PNQ 1771 (Truck). It is denied also that the respondent incurred the expense of Rs. 700 as alleged on account of higher charges and not Rs. 160 as shown by him."

Paragraph 5 (i) (c) of the replication is merely a denial of the plea contained in paragraph 5 (i) (c) on the written statement.

Upon the pleadings, therefore, there is no dispute between the parties that the respondent had used for his election Jeep No. PNH 5090 and Truck No. PNQ 1771. One controversy is whether the truck was hired for 11 days as alleged by the petitioner in the petition or for 4 days as alleged by the respondent, the second controversy is as to the value of the petrol, diesel and mobile oil purchased for these two vehicles and the third controversy is as to the amount of hire charges paid for the truck. I will deal with them in the order in which they are mentioned.

The contention of the petitioner is that upon the pleadings there is no denial of the allegation made in the petition that the respondent had taken Truck No. PNQ 1771 on hire for 11 days from 12th to 22nd February, 1967. It is further contended that the case of the respondent that he had himself the truck from 12th to 15th February, 1967 is an after thought. It is no doubt true that in paragraph 5 (i) (c) of the written statement there is no specific denial of this allegation but the denial is couched in these words:—

"It is denied also that the respondent incurred the expense of Rs. 770 as alleged on account of hire charges and not Rs. 160 as shown by him."

Coupled with the general denial in the opening part of paragraph 5 of the written statement that the "allegations made in para 5 and its various clauses and sub-clauses are wrong and are categorically denied," a very strict view of the form of the pleading in paragraph 5 (i) (c) of the written statement cannot be taken. The denial, even though it is general, has to be taken in conjunction with the Return of Expenses filed by the respondent and the vouchers in support thereof. The return of expenses shows an item of Rs. 160 on February 15, 1967 as hire charges of Truck No. PNQ 1771 and the voucher relating to this item is the receipt Exhibit PW 3/1 which specifically mentions that the said truck had been hired out to the respondent for his election from 12th to 15th February, 1967. The petitioner cannot, therefore, take advantage of the generality of the denial in paragraph 5 (i) (c) of the written statement. This would particularly be so when, as in this case, the evidence of the petitioner himself is to the effect that the truck was hired not for 11 days as alleged in the petition but for seven days.

The question, therefore, arises whether the truck was taken on hire for 11 days from 12th to 22nd February, 1967, as alleged by the petitioner or for 4 days from 12th to 15th February, 1967, as contended by the respondent. As stated above, even though the petitioner alleged in the petition that the truck remained with the respondent right up to 22nd February, 1967, he has admitted in cross-examination that—

"In March, 1967, I had gone to Mahilpur to find out the number of days for which this truck had remained with the respondent where Bhagwant Singh (PW. 3) told me that Sewa Singh was the driver of this truck and he also told me that this truck had remained with the respondent till 18th February, 1967."

In spite of this knowledge in March, 1967, the petitioner still alleged in the petition, which was filed later, that the respondent had used the truck till February 22, 1967.

The petitioner has produced Bhagwant Singh (PW. 3). He states that he was in charge of the Truck Operators Union, Mahilpur; that the respondent wanted to hire a truck for 7 days from 12-2-1967 to 18-2-1967 and that the hire of this truck was fixed at Rs. 70 per day excluding petrol and other expenses. He further states that the respondent had paid an advance of Rs. 100 to Sewa Singh (PW. 10), the driver of the truck, at the time of hiring

and that the respondent came to Mahilpur with the driver on February 15, 1967 on which date he paid an additional amount of Rs. 180 but instead of taking a receipt for Rs. 280, he asked for a receipt for Rs. 160 only at the rate of Rs. 40 per day. If the initial hiring was for 7 days up to 18th February, 1967, I do not understand why the respondent had to go in the truck all the way to Mahilpur on February 15, 1967, only for the purpose of paying Rs. 180 on that date. Even if the hire money had to be paid during the period of hiring, it could easily have been paid to the driver of the truck who was all the time either with the respondent or with his workers. The story of the truck coming back to Mahilpur on February 15, 1967 for the sake of paying Rs. 180 does not ring true. Coming to the receipt (Exhibit PW. 1/3), I find that it is executed by Sewa Singh (PW. 10), the driver of the truck. It acknowledges the receipt of Rs. 160 in consideration of the hiring of the truck to the respondent from February 12, 1967 to February 15, 1967. It further states that the truck was released on the evening of that date and that there was no amount left due from the respondent. If the hiring was upto February 18, 1967, why should a receipt have been couched in the language in which it has been done? It is not possible for me to disregard the documentary evidence as contained in this receipt in the context of the surrounding circumstances adverted to above and to hold that the hiring was for a period which went beyond February 15, 1967. Sewa Singh (PW. 10), the driver of the truck, has also stated to the same effect as Bhagwant Singh (PW. 3). He admits that no receipt was given for the initial advance of Rs. 100 and that the truck was brought back to Mahilpur in the evening of February 15, 1967. For the same reasons, I find it difficult to rely upon the testimony of this witness also and I hold that the receipt (Exhibit PW. 3/1), represents the correct state of facts. The story of the hiring of the truck up to February 18, 1967, is falsified also by the fact that on February 17, 1967, i.e., one day before the hiring was to terminate, diesel of the value of Rs. 128.75 is alleged to have been put in this truck. Polling in this case took place throughout the constituency on February 18, 1967, and, by reason of section 126 of the Act, the convening or holding or attending any public meeting in this polling area would be banned as from February 16, 1967. In that situation, there would be no necessity of a truck after February 16, 1967 and it would be a very rash or ignorant candidate who would engage a truck during the prohibited period and put a considerable quantity of diesel in that truck as has been alleged to have been done in this case. I, therefore, hold that the truck was taken on hire by the respondent only from February 12 to February 15, 1967, and that he paid a sum of Rs. 160 as hire.

As to the second controversy, the respondent has admitted the purchase of petrol and mobile oil for the jeep and diesel for the truck to the extent of Rs. 852.34 as mentioned in the written statement. According to the Return of Expenses filed by the respondent purchases of petrol and mobile oil were made on 13th; 14th; 16th; 26th; 27th; 31st January, 1967 and 2nd; 3rd, 4th; 6th; 7th; 8th; 10th; 13th; 14th; 15th; 16th; and 17th February, 1967, and of diesel only on February 12, 1967. Vouchers in support of these purchases are annexed to the Return of Expenses. The Return of Expenses and these vouchers show that petrol, mobile oil and diesel were purchased from (1) Una Estate Service Station, Una; (2) M/s Lachhman Dass Faquir Chand, Nangal and (3) the Bhakra Service Station, Nangal. All the vouchers relating to the supply of petrol and mobile oil to the jeep contain the number of the jeep and the voucher relating to the supply of diesel to the truck contains the number of the

truck. Another noticeable fact is that, in the Return of Expenses filed by the respondent, there is no purchase of petrol for almost ten days between January 17 and 26, 1967.

The petitioner contends that in addition to petrol, mobile oil and diesel purchased on the dates mentioned in the Return of Expenses, the respondent had made further purchases of diesel of the value of Rs. 128.75 for the truck on February 17, 1967 and of petrol and mobile oil of the aggregate value of Rs. 60 for the jeep on January 17, 1967 and 19th and 22nd February, 1967 from Una Estate Service Station and of petrol and/or mobile oil from the Bhakra Service Station, Nangal, on 19th, 20th, 21st, 29th, 31st January, 1967 and 15th February, 1967, of the aggregate value of Rs. 122.62. The case, therefore, that was sought to be proved by evidence was that the respondent had not shown expenses to the extent only of Rs. 311.37 incurred in purchasing diesel, petrol and mobile oil although the petitioner had alleged in the petition that expenses of these items to the extent of Rs. 497.66 had not been shown in the Return of Expenses. On account of this discrepancy in the amount mentioned in the petition and the amount sought to be proved by evidence, a contention has been raised on behalf of the respondent that copies of the vouchers produced in evidence to prove these additional purchases have been forged by, *inter alia*, incorporating the number of the truck or the jeep in these vouchers.

So far as the purchase of diesel of the value of Rs. 128.75 on February 17, 1967, is concerned, it is sought to be proved by the evidence of Anant Ram (PW. 24) who is the attendant at the Una Estate Service Station. He has produced the voucher book containing copy of the voucher (Exhibit PW. 24/10) dated February 17, 1967 which shows the sale of diesel of the value of Rs. 128.75. This voucher contains the number of the truck as "1771-PNQ". This witness has stated that he supplied petrol to the respondent's jeep and "the respondent's truck No. PNQ. 1771. Exhibit PW. 24/9 and Exhibit PW. 24/10 are the counter-foils of the cash memos relating to supply of petrol to the respondent's truck." This witness therefore, clearly says that diesel as per voucher Exhibit PW. 24/10 was supplied on February 17, 1967 to the truck which he describes as of the respondent. The name of the respondent does not appear on the voucher Exhibit PW. 24/10. In view of my finding that the hiring of the truck terminated on February 15, 1967 and went no further, the evidence of this witness must be a falsehood in so far as he wants to implicate the respondent regarding the purchase of diesel on February 17, 1967. The sale of petrol and/or mobile oil aggregating Rs. 60 alleged to have been made by the Una Estate Service Station is sought to be evidence by copies of vouchers Exhibit PW. 24/1, dated 19-2-1967 for Rs. 34.68; Exhibit PW. 24/2, dated 22-2-1967 for Rs. 21.82 and Exhibit PW. 24/7, dated 17-1-1967 for Rs. 3.50. Now the vouchers Exhibits PW. 24/1 and PW. 24/2 relate to 19th and 22nd February, 1967 which dates fall after the polling had taken place throughout the constituency on February 18, 1967. Even though the result was declared on February 22, 1967 (which is one of the dates under section 77 of the Act), I do not see how the purchase of petrol on 19th and 22nd February, 1967, could be in connection with the election. In this view of the matter I do not give any finding as to whether the vouchers pertaining to the purchase of petrol and/or mobile oil, vide Exhibits PW. 24/1 and PW. 24/2 are genuine or not. As to the third voucher Exhibit PW. 24/7 dated January 17, 1967, for Rs. 3.50 it relates to the purchase of mobile oil. The figures '5' written in the columns of rate and price are dissimilar to the figure '5' used when

mentioning the number of the jeep '5090'. This voucher appears to me to be suspicious and I do not place any reliance on it so as to held that the respondent should have included the amount of his voucher in this Return of Expenses.

This witness has admitted in cross-examination that he is known to the petitioner for many years because the petitioner was one of the partners in Victory Transport where this witness had been employed. His interest in the petitioner is evident and no reliance can be placed upon his testimony. I, therefore, reject the petitioner's contention that any diesel for the value of Rs. 128.75 or petrol and mobile oil of the aggregate value of Rs. 60 was purchased by the respondent for the truck and the jeep.

So far as the other purchases of petrol and/or mobile oil are concerned, they are sought to be proved by vouchers of the Bhakra Service Station, Nangal. The dates and the amounts of these alleged purchases along with the vouchers in alleged support of these purchases are given below:—

Date	Amount Rs.	Exhibit
19-1-1967	29.70	P.W. 21/1
20-1-1967	33.00	P.W. 21/2
21-1-1967	25.75	P.W. 21/3
29-1-1967	16.10	P.W. 21/5
31-1-1967	16.82	P.W. 21/6
15-2-1967	1.25	P.W. 21/11

To prove these purchases, the petitioner has produced Gurbax Singh (PW. 21) who alleges himself to be the Manager of this Service Station. He has produced the voucher books containing these vouchers. This witness has stated that petrol and/or mobile oil was supplied by him to the respondent's jeep PNH 5090 as per vouchers contained in these books. It was suggested to him in cross-examination that the number of the jeep was put in the disputed vouchers Exhibits, PW. 21/1 to PW. 21/3; Exhibit PW. 21/5. Exhibit PW. 21/6 and Exhibit PW. 21/11 later with the help of a carbon paper. The appearance of the number of the jeep on these vouchers is not an un-usual circumstance because the number appears even on the vouchers which are filed by the respondent with his Return of Expenses. It is also true that the number of the vehicle getting the petrol is not mentioned in all the vouchers in the voucher books produced. The suggestion of forgery is countered by the petitioner by saying that the total of these vouchers comes to only Rs. 122.62 and there would be no point in forging these vouchers because even if this amount is added, the total expenses will not exceed the prescribed limit. Another argument of the petitioner is that there is no purchase of petrol, according to the Return of Expenses, from January 17, 1967 to January 26, 1967, whereas petrol is shown to have been purchased in the Return of Expenses on practically every other day. The explanation of the respondent as to this long period during which petrol was not purchased does not cover the entire period of about 10 days and is not only not convincing but goes to show that he did purchase petrol between 17th and 26th January, 1967. This is what the respondent states:—

"This jeep was used on all the days in January and February, 1967 except when it was out of order. I do not know on what date or dates this jeep was out of order. The defects in this jeep whenever they occurred were ordinary defects like water getting into the distributor or stoppage of free flow of petrol. It was only once when it got stuck in the Swan Stream that it was not used for 2 or 4 days. This was in the third week of January, 1967 but I do not remember the exact date. No repairs were effected on this

jeep because no repairs were needed. . . . It had only got stuck in the stream. Between 16th and 26th January, 1967 the jeep was moving on some days and stationary on others. During the days when it was used, petrol was purchased from three petrol pumps. I do not remember from which particular petrol pump petrol was purchased for this jeep for the days on which it was used between 16th and 26th January, 1967, I cannot say whether any petrol was purchased during these days."

No convincing argument has been addressed to me on behalf of the respondent that the vouchers Exhibits PW. 21/1 to PW. 21/3, Exhibit PW. 21/5, Exhibit PW. 21/6 and Exhibit PW. 21/11 were forged by Gurbax Singh (PW. 21) at the instance of the petitioner. Arguments were also addressed that the various figures on the vouchers are either in different ink of dissimilar to each other to show that the number of the jeep was put in later. I am not impressed with these arguments because of my own visual inspection of these disputed vouchers. I, therefore, hold that the respondent incurred and, therefore, should have shown this amount of Rs. 122.62 in his Return of Expenses in respect of the petrol and/or mobile oil purchased.

As to the third controversy, I have already, held that the receipt Exhibit PW. 3/1 for Rs. 160 is a genuine receipt for the reasons discussed above, with regard to the first controversy, I cannot place any reliance upon the statements of Bhagwant Singh (PW. 3) and Sewa Singh (PW. 10).

In the result I hold that the petitioner has succeeded in proving the additional expenses of Rs. 122.62 only.

The next item of alleged expenses relates to the omission of the respondent to show a sum of Rs. 150 being the hire charges of a loud-speaker. The petitioner's plea in respect of this amount is contained in paragraph 5 (i) (d) of the petition which is as follows:—

"That the respondent has shown in the said Return of Election Expenses Rs. 170 as having been paid as hire charges for a loud-speaker for 17 days at the rate of Rs. 10 per day, but in fact he has incurred and paid on this account Rs. 20 per day which was the normal rate and has thus tried to conceal Rs. 170 which he ought to have added to his election expenses."

The specific plea of the respondent in this behalf is as follows:—

"It is wrong and so denied that the respondent incurred the expense of Rs. 340 and not Rs. 170 as shown by him on account of loud-speaker."

The replication merely contains a reaffirmation of the allegations made in paragraph 5 (i) (d) of the petition.

The substance of the pleadings is that the loud-speaker was hired for 17 days at the rate of Rs. 20 per day, which, according to the petitioner, was the normal rate. The respondent admits that the loud-speaker was hired for 17 days but he denies that it was hired at the rate of Rs. 20 per day as alleged.

The loud-speaker was hired from Achhar Singh (RW. 5) who is a resident of Santokhgarh. He has stated that he had given the loud-speaker to the respondent through Bachitar Singh (RW. 9) on hire for 17 days and had quoted Rs. 10 per day as hire charges exclusive of the permit fee of Rs. 5 per day. He says that he received Rs. 170 from the respondent as per his receipt (Exhibit R. 9). The respondent has not only shown a sum of Rs. 170 for hire of the loud-speaker in his Return of Expenses but has shown various amounts paid by him by way of court-fee and this court-fee appears to be the court-fee that may have been payable as fee for obtaining the permit. The rate, inclusive of the permit fee on which the loud-speaker was taken on hire by the respondent, would really work out to Rs. 15 per day. Achhar Singh (RW. 5)

has also stated that he has taken a job for the last two years and the inference from this statement is that he was not a regular dealer in loud-speakers.

To prove the normal rate, the petitioner has relied upon the Returns of Expenses filed by Hari Ram (PW.4) and Behnga Singh (PW.9) who were candidates for election from other constituencies in Himachal Pradesh. In these Returns the rate of hiring of loud-speakers is undoubtedly Rs. 20 per day, but it is noticeable that these Returns do not show any amount towards court-fee for obtaining the permit for the loud-speakers. The only inference which can possibly be drawn from this fact is that the rate of Rs. 20 per day included the permit fee of Rs. 5 per day.

The petitioner has also relied upon the statement of Tarsem Singh (PW. 7). This witness is a dealer in loud-speakers, amongst other things. He has stated that he had supplied loud-speakers to two or three persons during the elections at the rate of Rs. 20 per day. In cross-examination, he has stated that he has a shop in the main bazar of Una and the dealers at Una, Nangal and Santokhgarh have fixed a flat rate of Rs. 20 per day for loud-speaker sets worked by a battery and Rs. 15 per set worked by power.

Achhar Singh (RW. 5), who supplied the loud-speaker to the respondent is not a regular dealer in loud-speakers etc., because, as stated by me earlier, he has taken a job for the last two years. He would, therefore, be interested to get what he can for a loud-speaker particularly when it is taken on hire for a long period of 17 days.

In any event, what the petitioner has to show is the amount which was incurred by the respondent. Normal rate has no relevance whatsoever to determining the expense when dealing with section 77 of the Act, particularly when there is not only oral evidence of the person who gave out on hire but also documentary evidence in the shape of the receipt (Exhibit R. 9) to support the case of the respondent that he had taken the loud-speaker on hire at the rate of Rs. 10/ per day exclusive of the permit fee. In my view, the petitioner has failed to prove that the respondent incurred an additional amount of Rs. 170/- for the hire of a loud-speaker.

The next item of alleged expenses relates to the commission of the respondent in showing a sum of Rs. 150/ paid as salary to Narain Singh as driver of the jeep and an estimated amount of Rs. 500/ as notional expenses for the wear and tear of the jeep. The allegations in respect of these amounts are contained in paragraph 5 (i) (e) of the petition which states:—

“That the respondent had purchased jeep No. 5090 PNH a short time before election period, for the purpose of his election campaign and he had engaged Shri Narain Singh son of Dalip Singh of village Palkowah as a driver to drive this jeep. The respondent has paid Rs. 150 to Shri Narain Singh for his work as a driver which he did during the election days, i.e., from the beginning of January, 1967 to 22nd of February, 1967. The respondent has intentionally omitted this item from his Return of Election-Expenses. The respondent used this jeep freely for the election-campaign which he has purchased for this specific purpose. He has shown no expense on this account. At least he has incurred the expenditure of wear and tear, caused in the election campaign, and the reasonable amount on this account is Rs. 500. Either the notional expense as hire-charges, amounting to Rs. 500 of this jeep or the same amount on account of wear and tear should have been included in the return of election expenses of the respondent, which he has failed to include.”

The specific reply of the respondent is as follows:—

“It is wrong, rather fantastic, to suggest that the respondent should have shown the pay of his driver of his own jeep and Rs. 500 as notional expenses as hire charges.”

In the replication, the petitioner reasserted:—

“That it is wrong that the respondent was not required to show in the Return of his Election-Expenses the salary paid to his driver and Rs. 500 as notional expenses as hire-charges.”

I may state that no argument has been addressed to me by the petitioner on the question of the amount of Rs. 150 alleged to have been paid to Narain Singh as his wages for driving the jeep and, therefore, I disallow the petitioner's claim respondent in his Return of Expenses.

As to the amount of Rs. 500 for wear and tear of the jeep reliance is placed by the petitioner on the decision of the Allahabad High Court reported in (1958) XV Election Law Reports 377 (*Karam Singh V. Jamuan Singh*). In that case a tractor had been purchased by the returned candidate and he himself had shown the amount of wear and tear in his Return of Expenses. The contention of the petitioner in that case was that in addition to the wear and tear, the purchase price of the tractor should also have been included in the Return of Expenses. The learned Judges repelled the contention about the inclusion of the purchase price of the tractor because they held that the purchase was not in connection with the election. They observed:—

“The evidence of the respondent shows that he has cultivation and that the tractor was purchased for purposes of being used by him in cultivating his land. The respondent has honestly admitted that, though the tractor was principally meant for that purpose, he did actually use it during the election period and for this reason he showed in his Return of Election Expenses, the amount which was spent on running this tractor for election purposes. The fact that the tractor was used for some time for election purposes does not mean that the amount invested in its purchase became an election expenditure and had to be taken into account for purposes of section 77 of the Act. The only amount, that can be taken into account, was the amount spent in the actual use of the tractor and this is also shown in the accounts. This wear and tear of the tractor is shown along with the amount of wear and tear which it might have suffered while being used for election purposes. The amount for wear and tear of the tractor is also shown in the accounts.”

There was no discussion in this case as to whether wear and tear of any vehicle belonging to the returned candidate, which is used during the election, should be included in the Return of Expenses. Even the petitioner does not say how much exactly should be added because he is only estimating the amount of wear and tear. As I have said earlier, what has to be shown in the Return of Expenses is the amount “incurred” by the returned candidate in the sense of incurring a liability. In my view, wear and tear of one's own vehicle is not an expense “incurred” and is not to be included in the Return of Expenses.

Other items of alleged expenses are contained in paragraph 5 (i) (f), (g) and (h) which are set out below:—

“(f) The respondent used this jeep throughout his constituency and crossed the Suan nadi where he had to pay toll-tax (Bridge-tax) of Rs. 2 per crossing and Rs. 2.50 if he crossed and returned within 24 hours. He has incurred an expense of

about Rs. 100 on this account, but he has deliberately failed to include this item in his Return of Election-Expenses. Similarly he has incurred and paid this toll-tax, with regard to his truck No. 1771 PNQ amounting to Rs. 30, which has also not been included.

- (g) That the respondent hired truck No. 3411 PNQ for carriage of his supporters to Una and from Una to Beet area on 22-2-1967 and paid Rs. 90 to the owner as hire-charges and spent Rs. 50 for the diesel oil. The respondent also incurred and paid Rs. 3 as toll-tax on the bridge at Swan Nadi. The total expenditure of Rs. 143 on this truck has not been included in the Return.
- (h) That the respondent has a flourishing business at Amritsar. He engaged and brought a Drama-Party, consisting four persons (Radio Singers) to his constituency for the purpose of propagating his candidature. They generally started the proceedings of every election meeting in the constituency with their songs and dramatic performances in order to attract people to the meetings. They carried on this work from 23rd or 24th January, 1967 to 15th February, 1967 and visited several villages, including Santokhgarh, Basdehra, Sanoli, Raipur, Pubowal, Pollian, Lalri, Dulehar, Palkowah, Jokhera, Ajauli, Charat Garh and Nangran etc., and put up their performances. The respondent incurred expenditure to the tune of Rs. 500 on this account, which has not been included in the election expenses."

It is not necessary to set out the pleas raised in the written statement with regard to these expenses because, as stated earlier, the petitioner's counsel has frankly conceded at the time of arguments that there is no evidence to support the allegations contained in paragraph 5 (i) (f), (g) and (h) of the petition.

The resultant finding an Issue No. 1 read with Issue No. 2 is that the respondent should have shown the sum of Rs. 500 paid by him as security to the Himachal Pradesh Congress Committee and the sum of Rs. 122.62 incurred by him as expenses for purchase of petrol and mobile oil for his jeep No. PNH 5090 in his Return of Expenses. When these two amounts are added, the amount of expenses incurred by the respondent would come to Rs. 2,484.67 which is in excess of the limit prescribed for Himachal Pradesh for purposes of section 77 of the Act.

The next Issue for determination is Issue No. 3 which is framed in the following terms:—

"Whether the respondent, his workers and supporters with his consent procured jeep No. 5090 PNH for carrying voters to Polling Station No. 44 from village Pubowal on 18th February, 1967 as detailed in para 5 (ii) of the petition?"

The allegations of the petitioner with respect to this issue are contained in paragraph 5 (ii) of the petition.

This paragraph reads:—

"That the respondent and his workers and supporters, with his consent, procured jeep No. 5090 PNH for carrying the electors to and from polling station Pubowal as given below:

That there were two polling stations Nos. 3 and 4 in the school building of village Pubowal where the voters of village Pubowal had to cast their votes. Shri Vidya Sagar was the petitioner's polling agent at Polling Station No. 4 where Shri Nardev Singh was the Presiding Officer. The petitioner and the respondent had set up their polling-camps near the above-said school. At about noon time the respondent came in his own jeep PNH 5090,

which was being driven by Shri Narain Singh son of Dalip Singh of village Palkowah. The respondent also brought the following voters from village Pubowal to the Polling Station for casting their votes in that jeep:—

- (i) Hukmi wife of Malika,
- (ii) Bhagwanti widow of Shiv Charan,
- (iii) Bachni widow of Rakha,
- (iv) Bakhsho wife of Tarlochan Singh.

This jeep stopped at respondent's polling camp and he himself came to the polling booths where voters were waiting for their turn to cast votes. The respondent began canvassing the voters to vote for him. As some of them refused to oblige him, he held out threats of taking revenge from them after the election. The petitioner's polling agent; Shri Vidya Sagar Sharma objected to this illegality and high handedness of the respondent and he also complained to the Presiding Officer against this conduct of the respondent and about the carriage of voters by the respondent. The Presiding Officer at No. 4, asked the polling agent to give his complaint in writing. The Polling Agent went outside to write down the complaint. Meanwhile the respondent's above-said jeep, which had returned to village Pubowal, again came with a load of voters, including Jamna wife of Amar Nath, Parsinnin wife of Amar Nath, Mota Singh son of Dula Singh, Mahon wife of Chhajja Singh, Karmi wife of Karma and Harnam Devi wife of Shri Ram, and the jeep was being driven at that time also by the same driver Narain Singh. All these voters alighted at the camp of the respondent. The polling agent of the petitioner hurriedly wrote out a complaint at about 1.20 P.M. and submitted it to the Presiding Officer. This complaint was also witnessed by four villagers of village Pubowal who were present at that time, namely, Shri Bishan Singh, Mehar Chand and Shri Amar Singh and Lambardar Nasib Chand. The Presiding Officer took the polling agent's complaint and told him that he was not competent to take any action and Shri Vidya Sagar respondent had left in the meanwhile. This jeep belonged to Shri Vidya Sagar respondent and he had purchased it for his election campaign and had used it for that purpose throughout the election days. Shri Narain Singh was the driver working on it throughout this period.

The specific plea of the respondent with regard to this allegation is contained in paragraph 5 (ii) of the written statement in these terms:—

"It is wrong and categorically denied that the respondent or his driver, carried any voters to the polling station as alleged. In fact, Shri Narain Singh was not the driver but Shri Roop Singh, was the driver. The respondent did not procure or hire any vehicle for the purpose as alleged. Shri Vidya Sagar, polling agent of the petitioner, was in the employ as Manager of the Co-operative Marketing Society, Una, under the petitioner who is the President of the said Society. The respondent had complained to the Returning Officer that practically all the Presiding Officer and especially 8 or 9 of them were actively helping the petitioner and were interested in him. In the interest of his employer Shri Vidya Sagar polling agent appears to have fabricated false evidence in support of the allegations. He appears to have been so encouraged by the Presiding Officer."

Paragraph 5 (ii) of the replication is in these terms:—

"That it is wrong and is denied that the respondent and his driver did not carry voters to the Polling Station at Pubowal, as alleged in this sub-clause of the election petition. It is also denied that the driver on that jeep was not Shri Narain Singh and was Shri Rup Singh. The name of Shri Rup Singh is being introduced only to create suitable evidence for the

respondent. It is also wrong that the respondent did not procure or hire any vehicle for the carriage of voters. Shri Vidya Sagar, Polling Agent of the petitioner, is admitted to be an employee of the Co-operative Marketing Society, Una. It is wrong that any Presiding Officer was helping the petitioner and it is also wrong that the respondent made any complaint to the Returning Officer in this behalf. It is also denied that Shri Vidya Sagar, Polling Agent fabricated any sort of evidence at the encouragement of the Presiding Officer. This allegation of the respondent is very reckless and baseless."

The corrupt practice which is alleged to have been committed by the respondent on these allegations is the corrupt practice contemplated by sub-section (5) of section 123 of the Act. This sub-section is in these terms:—

"The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 25 or a place fixed under sub-section (1) of section 29 for the poll:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression 'vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise."

Arguments have been addressed to me only on the question of carriage of voters and not on the alleged canvassing by the respondent. The first document in this connection is the complaint (Exhibit PW. 11/1) which is alleged to have been made by Vidya Sagar (PW. 12) who was the polling agent of the petitioner at polling station No. 4. The complaint is addressed to the Presiding Officer Pubowal and it states:—

"I beg to bring to your kind notice that Mr. Vidya Sagar Joshi attending the polling station at 12.30 P.M. and stayed there for 1/2 an hour and openly canvassed the public voters inside the polling station and threatened the voters openly.

2. Secondly he used his special Jeep for conveyance to the voters from village to the Polling Station which is quite contrary against the election rules, these two objections may kindly be seriously taken."

This complaint bears the signatures of Parmeshwari Dass; Nasib Chand (PW. 13), Mehar Chand and Amar Singh. The first thing to be noticed is that the name of Parmeshwari Das as a signatory to this complaint is not mentioned in paragraph 5 (ii) of the petition and Bishan Singh who is stated, in the petition, to have signed this complaint has not witnessed it. The second thing to be noticed is that the name of the village (Pubowal) is not mentioned in the complaint.

The second document is the diary maintained by the Presiding Officer Nardev Singh (PW. 11). It is itemised.

Item 20 relates to "electoral offences with details" and sub-item, (a) relates to "canvassing within one hundred metres of a polling station." Against this sub-item, it is stated—"by Shri Vidya Sagar candidate reported by Vidya Sagar Sharma Polling Agent." Item 21 relates to "Serious complaints, if any, made by candidates." Against this item it is stated—"It was alleged that Shri Vidya Sagar candidate used vehicle for conveyance of voters Complainant advised to bring a suit under section 133 or legal remedy."

The main allegation of the respondent with regard to the complaint and the recording of it by the Presiding Officer is that these two documents have been forged and procured later on. Apart from the evidence of witnesses, to which I will come a little later, what is pointed out is that the ink used for writing item 20 (a) and item 21 and other items in the diary (Exhibit PW. 11/2) is different from the ink used for writing, the words against item 20 (a) and item 21. It is also pointed out that the writing against item 20 (a) and item 21 is cramped compared to the writing either of the items or of the replies to the other items in this diary. The explanation for the difference in ink and the cramped writing is given by Nardev Singh (PW. 11) in these words:—

"The entries in Ex. PW. 11/2 were made by me after the polling was over but the relevant columns had been prepared by me on the previous night because after the polling is over there is hardly anytime to prepare these columns."

I may here state that although the ink in the writings against item 20 (a) and item 21 is different from the ink used for the writing of the items, it is not very much different from the writings against the other items. This witness has repelled the suggestion that the complaint (Exhibit PW. 11/1) was received after the polling was over. The cross-examination of this witness has not brought out anything from which it can be inferred that he was inimically disposed towards the respondent.

The petitioner has urged that the plea of forgery and the allegation that the complaint (Exhibit PW. 11/1) was taken by the Presiding Officer after the polling was over would involve the Sub-Divisional Officer; the Election Kanungo; other officials concerned with the sealing of election papers; the two Presiding Officers of polling booths Nos. 3 and 4; the complainant and the four persons who witnessed the complaint and that it is too much to expect that all these people will conspire with the petitioner just for the sake of taking on record a complaint. I find substance in this argument apart from the fact that nothing has been brought out in cross-examination of the Presiding Officer Nardev Singh (PW. 11) to discredit his testimony. I, therefore, hold that the complaint (Exhibit PW. 11/1) was made to the Presiding Officer at the time as alleged in the petition.

The question, however, is whether the complaint is based upon facts. The first witness examined by the petitioner in this behalf is Bikhari Singh (PW. 8), who is a Police Constable posted at the polling station Pubowal. He states that he was standing at the main gate of the school and that the respondent came to the polling station at about 12.00 noon or 12.30 P.M. in a jeep accompanied by four or five ladies. In cross-examination he admitted that no quarrel had taken place in the polling station on that day. He does not say anything about the allegation in the petition that:—

"The respondent began canvassing the voters to vote for him. As some of them refused to oblige him, he held out threats of taking revenge from them after the election. The petitioner's polling agent; Shri Vidya Sagar Sharma—objected to this illegality

and high-handedness of the respondent and he also complained to the Presiding Officer against this conduct of the respondent and about the carriage of voters by the respondent."

If this witness was posted outside the polling booths, I see no reason why he should not have been able to depose about these allegations which, if true, must have happened in his presence. Apart from that, the story of any remonstrances by Vidya Sagar Sharma, does not find support even from the complaint, because the only allegation in the complaint apart from the carriage of voters, is that the respondent "openly canvassed the public voters inside the polling station and threatened the voters openly. "The story of threats contained in the complaint (Exhibit PW. 11/1) and in the petition is not deposed to even by Vidya Sagar (PW. 12) the complainant in his statement in Court. All that he says in his evidence in Court is that:—

"The respondent started canvassing votes for himself inside the polling station. I personally requested the respondent to refrain from doing so but he did not listen to me. I then went and complained to the Presiding Officer."

There is, therefore, no doubt that the first part of the complaint regarding open canvassing of the voters and threats to the voters is false.

The second part of the complaint is about the carriage of voters. The petition alleges two trips by the respondent's jeep on this date, in which voters were alleged to have been carried. The complaint does not mention two trips. Further, according to the petition, the first trip was made at noon time with some voters; there was canvassing by the respondent; there were threats by the respondent and remonstrances by Vidya Sagar (PW. 12) and then there was the second trip while all this was going on. The complaint in writing is alleged to have been made at 1.20 P.M. after an oral complaint had been made to Nardev Singh (PW. 11) Presiding Officer at polling station No. 4. No mention is made in the petition about any complaint having been made to the Presiding Officer of polling booth No. 3, yet Krishan Dev (PW. 23) Presiding Officer of polling booth No. 3 states that an oral complaint was made to him by Vidya Sagar (PW. 12) at about 12.30 P.M. and he asked him to send a written complaint which was made to him at 1.30 P.M. If this witness is to be belied, the first complaint, even though oral, was made at 12.30 P.M. that is almost immediately after the respondent arrived at the polling station. If that was so, there would not be any time for the respondent's jeep to have made the second trip carrying the second batch of voters. It is also surprising that in spite of these oral as well as written complaints, the two presiding officers Nardev Singh (PW. 12) and Krishan Dev (PW. 23) did not see any voters being carried.

The names of the voters who are alleged to have been carried by the respondent have been given in the petition. That means that—the names were known at the time when the complaint was made. Yet, these names are not mentioned in the complaint. Of the witnesses to the complaint, Parmeshari Das is the father of the complainant Vidya Sagar (PW. 12). He has not even been produced. The only witness to the complaint who has been produced is Nasib Chand (PW. 13). He has admitted in cross-examination that he did not personally see the persons who got down from the jeep for casting votes and he only saw them taking *parchis* from the respondent and going towards the booth. He has further admitted that both Mehar Chand (who has not been produced) and Parmeshari Das (father of Vidya Sagar). (PW. 12) were holding office in the Pubowal school. The respondent has produced Karam Singh (R.W. 1),

President of the Pubowal Co-operative Society of which, Vidya Sagar (PW. 12) is the Vice-President and Nasib Chand (PW. 13) is the salesman. None of the voters who are alleged to have been carried by the respondent has been produced by the petitioner. On the other hand, the respondent has produced Bachni (R.W. 4) and Mota Singh (R.W. 3), who have denied having gone to the polling station in the respondent's jeep. It has also been demonstrated from the cross-examination of Nasib Chand (PW. 13) that out of the other voters alleged to have been carried, Parsinni is the wife of Amar Nath, who is a brother of Mehar Chand, one of the witnesses to the complaint; Jamna is the wife of Amar Nath, a brother Parmeshari Das, another witness to the complaint and father of the complainant Vidya Sagar (PW. 12); Bakhsh is the wife of Tarlochan Singh who is the son of Amar Singh, another witness to the complaint and that Karami belongs to the village of Nasib Chand (PW. 13), another witness to the complaint. The above facts amply demonstrate that the witnesses to the complaint and many of the alleged voters whose names are mentioned in the petition are interested in the petitioner and these voters could not have been carried by the respondent in his jeep. The allegations made in paragraph 5 (ii) of the petition and in the complaint (Exhibit PW. 11/1) appear to me to be completely false.

Even if these voters were carried by the respondent in his own jeep as alleged, it would not, in my opinion, amount to a corrupt practice within the meaning of sub-section (5) of section 123 of the Act. Sub-section (5) prohibits the carriage of voters in a vehicle which has been hired or procured. The jeep in question, admittedly belonged to the respondent and there was, therefore, no question of its having been hired. It cannot also be said to have been procured. 'Procure' indicates the obtaining of a vehicle from a third person and is not an appropriate word for the use of one's own vehicle. If the intention of the Legislature had been to prohibit the carriage of voters in one's own vehicle, the word 'using' would have been used either in place of the word 'procuring' or in addition to it. Used as it is in juxtaposition with 'hiring', 'procuring' in sub-section (5) of section 123 of the Act means obtaining or getting possession from another person. I find some support for my opinion from the case reported in 1963 (1) All England Law Reports 202 in re; R.V. Mills. It will suffice to quote the head-note of this case which is:—

"D., an unmarried girl became pregnant. She consulted a Dr. "J", who gave her pills and injections which she said in evidence she hoped produced a miscarriage; they did not and he gave her the name and address of the appellant. She visited the appellant's flat where she had a conversation with him in connection with a proposed abortion. The police, who had been informed of this visit, followed her to the appellant's flat and, after allowing some twenty-five minutes to elapse, they entered the flat at the moment when D. had in her hand her diary, apparently informing the appellant of the time when she thought that she had become pregnant. At the same time, there was a kettle boiling on the stove containing various instruments which undoubtedly could be used for the purpose of procuring an abortion. The appellant was convicted of procuring instruments with intent to procure a miscarriage, contrary to s. 59 of the Offences against the Person Act, 1861. It was not clear on the evidence when the instruments in question came into the appellant's possession, nor did the prosecution prove that they had come into his possession at the date charged and for the purpose of procuring D.'s miscarriage. Or appeal.

Held: the conviction must be quashed, because in the context of s. 59 of the Act of 1861 (where "procure" was used in juxtaposition with "supply" which he noted the parting of possession from one person to another) there was no reason to give the word "procure" any wider meaning than its ordinary meaning of getting possession of something from another person and accordingly the prosecution had not established that the appellant had procured the instruments for the purpose alleged."

Even if, therefore, the respondent carried voters to the polling station on the date of polling as alleged, in his own jeep, it would not be a corrupt practice as contemplated by sub-section (5) of section 123 of the Act. This issue is, therefore, decided against the petitioner.

The next and the last Issue for determination is Issue No. 4 which is:—

"Whether the respondent published a false statement of fact which was false to his knowledge or which he believed to be false or did not believe to be true, at a meeting held on 12th February, 1967 at village Santokhgarh in relation to the personal character and conduct of the petitioner as detailed in para 5 (iii) of the petition?"

Paragraph 5 (iii) of the petition runs as under:—

"That the respondent published a statement of fact which was false or which he believed to be false or did not believe to be true in relation to the personal character or conduct of the petitioner, which was reasonably calculated to prejudice the prospects of the petitioner's election."

On 12-1-1967 at about 8 or 9 P.M. a fire broke out in the house of Harijan Lambardar Bachittar Singh of village Santokhgarh. He lodged a report with the Police, who were present at village Santokhgarh, about this incident and alleged that Shri Data Ram alias Bawan a supporter of the petitioner, was suspected of setting the fire. This Lambardar was an active supporter and worker of the respondent and both of them had organized an election meeting at Santokhgarh on that night. In that meeting the respondent made a false statement to the effect that in reality the petitioner was responsible for setting the house of Lambardar Bachittar Singh on fire as the petitioner wanted to over-awe the villagers who were opposing him in the election and maligned the petitioner on this account. This statement of the respondent was false or he believed to be false or did not know it to be true, and he simply made it at a public meeting in the village of the petitioner in order to lower him down in the estimation of the voters. This allegation made by the respondent against the petitioner was spread out in the adjoining villages and it adversely affected the election prospects of the petitioner."

The specific reply of the respondent in his written statement to these allegations is as follows:—

"It is wrong and so categorically denied that the respondent in the election meeting on 12-2-1967 made the statement attributed to him to the effect that the petitioner was responsible for setting the house of Lambardar Bachittar Singh on fire."

In the relevant paragraph of the replication, the petitioner states:—

"That it is wrong that the respondent did not make a false statement in the election meeting on 12-2-1967 to the effect that the petitioner was responsible for setting the house of Lambardar Bachittar Singh on fire."

In his own statement in Court and by the statements of some of his witnesses, the respondent sought to

establish that he was not present in the meeting at all. In his examination-in-chief he states:—

"A public meeting was held in Santokhgarh on February 12, 1967 in connection with my election campaign. Dr. Parmar had come to Santokhgarh on February 11, 1967 and had given a speech to canvass for support for the Congress. I arranged my meeting on February 12, 1967 as a counter-blast to this meeting. I could not speak at that meeting because I could not reach Santokhgarh only at 11.00 P.M. by which time the meeting was over."

This case was not made out in the written statement. In fact, the written statement contains only a denial of the statement imputed to the respondent. On the statement of the pleadings it is not possible to accept the truth of the assertion made by the respondent in his evidence in Court that he was not present in this meeting.

The statement which is imputed to the respondent in the petition is that:—

"The petitioner was responsible for setting the house of Lambardar Bachittar Singh on fire as the petitioner wanted to over-awe the villagers who were opposing him in the election and maligned the petitioner on this account."

The witnesses who have been produced have deposed only that what the respondent had stated was that the petitioner was responsible for setting the house of Bachittar Singh on fire to terrorize the respondent's workers. None of the witnesses supported the allegation made in the petition that the respondent maligned the petitioner.

Ram Sawarup (PW. 13) has stated:—

"The respondent also told the audience that the petitioner had got the house of one person set on fire and that he had done so with the object of terrorizing the respondent's workers."

This witness does not even mention the name of Bachittar Singh as having been spoken by the respondent. In cross-examination he states that the time of the fire was about 7 or 8 P.M. and the meeting dispersed at 10.00 P.M.

Hukam Chand (PW. 15) has stated:—

"The respondent told the audience that he had just received news about the petitioner having got the house of Shri Bachittar Singh set on fire that the petitioner was responsible for this fire and that he had instigated some one to set fire to the House".

According to this witness, no one from the audience, including Bachittar Singh, left the meeting on hearing about the fire.

Roshan Lal (PW. 16) has stated that the respondent "told the audience that he had just received news that the petitioner had got the house of Bachittar Singh set on fire. He told the audience that the petitioner's objection getting the house of Bachittar Singh burnt was to terrorize the voters". In cross-examination, this witness states that Bachittar Singh and four other persons left the meeting on getting news of the fire and he thereby contradicts Hukam Chand (PW. 15).

Ram Nath (PW. 17.) says:—

"The respondent also told the audience that the petitioner was responsible for the loss caused by fire to the house of Bachittar Singh who was an active worker of the respondent. The respondent told the audience that the object of the petitioner in getting fire to Bachittar Singh's house through his men was to terrorize the voters."

In cross-examination this witness states that Bachittar Singh left the meeting but returned after 10-15 minutes thereby contradicting Roshan Lal (RW.16),

who has stated that Bachittar Singh returned to the meeting after 1½ hours.

In my opinion, the evidence led by the petitioner is contradictory and is not convincing.

There was an incident of fire in the house of Bachittar Singh when some grass was burnt. Bachittar Singh (RW. 9) who was admittedly a supporter of the respondent, lodged a report (Exhibit PW. 6/1) about this incident in the police station on February 13, 1967. In this report it has not been stated that the fire was caused by the petitioner. What is stated by Bachittar Singh is that while he was at the meeting he heard about the fire to his house; he ran to his house and saw that the room in which he had stored grass and bamboos was open and some people had taken the grass and bamboos out of the room and had extinguished the fire. He further stated that he suspected Data Ram, a worker of the petitioner.

It appears to me that the petitioner has taken advantage of this complaint to make allegations against the respondent for having made these statements which are alleged in the petition. If the respondent had implicated the petitioner as being responsible for setting the house of Bachittar Singh on fire, I do not see any reason why his worker Bachittar Singh should not have so stated in his complaint to the police station.

I, therefore, hold that the petitioner has not been able to prove Issue No. 4.

As a result of my findings on Issues Nos. 1 and 2 as recorded earlier, I hold that the respondent has committed the corrupt practice as contemplated by sub-section (6) of section 123 of the Act and, therefore, declare the election of the respondent to be void under section 98 (6) of the Act.

I have held the respondent to be guilty of the corrupt practice of not including the amount of Rs. 500 paid by him as security to the Himachal Pradesh Congress Committee and a sum of Rs. 122.62 for purchase of petrol. With regard to the sum of Rs. 500, I have held that even though the amount was paid on December 24, 1966 it was incurred within the meaning of section 77 of the Act, between the two dates mentioned in this section and this conclusion is really a conclusion of law. As to the amount of Rs. 122.62 for petrol, even if this amount is added to the Return of Expenses, it would not take the total beyond Rs. 2,000 if the amount of Rs. 500 is not taken into consideration. Further, the petitioner has failed on the other issues as he had produced false evidence. Under the circumstances, although I have set aside the election of the respondent, I do not think the petitioner is entitled to any costs and I leave the parties to bear their own costs of this petition.

The Registrar will comply with the provisions of section 103 of the Act

Sd/-

S. N. ANDLEY,
Judge.

January 15, 1968.

By order,

A. N. SEN,

Secretary to the Election Commission of India.

By order,

D. B. LAL,

Chief Electoral Officer.

